

Standing Committee on Social Issues

Releasing the Past

Adoption Practices 1950 - 1998

Final Report

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Terms of Reference

That the Standing Committee on Social Issues inquire into, and report on:

- 1) the professional practices in the administration and delivery of adoption and related services, particularly those services relating to the taking of consents, offered to birth parents and children in New South Wales from 1950 to 1998;
- 2) whether adoption practices referred to in clause one involved unethical and unlawful practices or practices that denied birth parents access to non adoption alternatives for their child; and
- 3) if so, what measures would assist persons experiencing distress due to such adoption practices.

The Committee will consider adoption practices in New South Wales from 1950 to 1998. However, the primary emphasis of the Inquiry will be on the practices occurring before the introduction of the *Adoption Information Act 1990*.

These terms of reference were referred to the Standing Committee on Social Issues by:

The Hon Faye Lo Po' MP, Minister for Community Services, Minister for Ageing, Minister for Disability Services, Minister for Women in June 1998.

Committee Membership

Jan Burnswoods, MLC, **Australian Labor Party, Chair**

The Hon Doug Moppett, MLC, **National Party, Deputy Chair**

The Hon Dr Arthur Chesterfield-Evans, MLC, **Australian Democrats**

The Hon Amanda Fazio, MLC, **Australian Labor Party**

from 11 October 2000

The Hon Ian West, MLC, **Australian Labor Party**

from 16 November 2000

52nd Parliament

- On 25 May 1999 the Standing Committee on Social Issues Committee was reconstituted. The membership was reduced from seven to five Members.
- The Hon Henry Tsang, MLC, Australian Labor Party, served on the Committee from 25 May 1999 to 11 October 2000. Ms Fazio was appointed in place of Mr Tsang.
- The Hon Andrew Manson, MLC, Australian Labor Party, served on the Committee from 25 May 1999 to 16 November 2000. Mr West was appointed in place of Mr Manson.

51st Parliament

The following are past Members of the Standing Committee on Social Issues, who participated in the adoption practices inquiry, until the expiry of the 51st Parliament on 5 March 1999:

- The late Hon Dr Marlene Goldsmith, MLC, Deputy Chair, Liberal Party
- The Hon James Kaldis, MLC, Australian Labor Party
- The Hon Peter Primrose, MLC, Australian Labor Party
- The Hon Carmel Tebbutt, MLC, Australian Labor Party.

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Chair's Foreword

I am pleased to present the final report of the Committee's inquiry into adoption practices, 1950 to 1998.

This inquiry has given many people, and particularly mothers, an opportunity to write and speak about their experiences of adoption. I would especially like to thank those mothers who bravely spoke, in public, about what happened to them and how it has affected their lives. Their stories were often heart-rending and we value their courage. We hope that the releasing of these stories, together with positive future action, will facilitate the healing of past hurts.

Some people have emphasised that our inquiry is about past practices. True, but the actions of the past are felt today and will continue to have an effect on future generations. An important aim of this inquiry has been to make sure that past mistakes are not repeated.

Committee Members were struck by the widespread interest in this inquiry and were constantly reminded of the significance of adoption to hundreds of thousands of people in this State. All of us have been stopped many times by people wanting to relate their own family's adoption story. Clearly, adoption has deeply touched many lives.

The inquiry was lengthy, complex and challenging. The issues before us required substantial research and consultation with organisations and individuals. Their commitment to the inquiry helped us to weave together the strands of past adoption practices and their assistance is greatly appreciated.

I am extremely grateful to Committee Members for their sensitivity and skill in dealing with the issues before this inquiry and arriving at a unanimous report. I appreciate the efforts of the Committee secretariat in the management of the inquiry process. This inquiry required a team effort from all members of staff. I would like to express my thanks to Tony Davies, Julie Langsworth, Beverly Duffy and Heather Crichton. Without the tireless efforts of all these dedicated people, this report would not have been possible.

I commend this report to the Government.



Jan Burnswoods, MLC
Chair

Summary and Recommendations

The Committee was directed to inquire into adoption practices in the period 1950 to 1998. The report, then, is necessarily concerned with the past and with describing past practices. More importantly, it is also concerned with the effects of past actions, and the need to address these effects with measures applying to the future.

Part One includes background information on adoption laws, policy and practices and provides the context in which to understand and assess the evidence presented to this inquiry. The Part considers the development of adoption laws and policies, with their key principles of ensuring secrecy and providing a neat solution to the twin problems of illegitimacy and infertility. Adoptions in New South Wales reached a peak in 1972 at 4,564. By 1975 there were only 1,889 adoptions and by 1984 the number had dropped to 741. In 1999, there were only 178 adoptions including overseas born children. With the significant decline in the number of local babies available for adoption, most adoptions now involve either babies from overseas or babies with special needs.

This part of the report also includes an overview of the legal and ethical standards that applied during the period. The Committee has been cautious not to judge past practices by today's standards. The report acknowledges that to a large degree adoption practices reflected the values and attitudes prevalent in the 1950s and 1960s. However, it is important to stress that there was not in the past, nor is there now, a single set of attitudes and values. While there were common principles guiding adoption practices there were also professionals seeking to question and challenge the appropriateness of these practices.

Part Two of the report details the experiences of the parents, mostly mothers, who relinquished a child to adoption and seeks to evaluate whether these practices were inappropriate, unethical and unlawful. The section describes the experiences of past adoption practices during the pregnancy and birth and in the post adoption period. In particular, the section details the experiences of single pregnant women residing in maternity homes during pregnancy, their treatment during and after labour and practices surrounding the signing of consent. A large number of witnesses told the Committee of their individual experiences of adoption and this Part presents as many of their accounts as possible. It seeks to convey the emotion and distress expressed in these testimonies. The Committee acknowledges that in certain cases past adoption practices were misguided, and that on occasions unethical and unlawful practices have occurred.

This section of the report also looks at the short- and long-term effects of adoption and the past failure of adoption professionals, family members and others to acknowledge those effects. This provides the context in which the need for continuing support for people affected by past adoption practices may be understood.

Part Three, as directed by the terms of reference, examines what measures would assist people experiencing distress as a result of past adoption practices. The recommendations from this inquiry are

developed in chapter 10 and listed below. These recommendations address the need for improvements in the delivery of current adoption services and post adoption information and resources. The chapter looks at reparations for past practices and at the specific issues of compensation, apology and acknowledgment. The Committee notes that some adoption-related issues, such as reunions and information about biological heritage, will be important to subsequent generations.

The last chapter deals briefly with issues for the future. We have found in taking evidence about past actions that many of the issues are relevant to future social policy and practice. The chapter seeks to stimulate debate on such matters as donor insemination, support for state wards, and several aspects of the *Adoption Act 2000*.

Many past adoption practices have entrenched a pattern of disadvantage and suffering for many parents, mostly mothers, who relinquished a child for adoption particularly in the 1950s, 1960s and 1970s. The purpose of this report has been to describe and explain the past, with a view to recommending changes for the present and for the future. The report is an acknowledgment that many mothers who gave up their children to adoption were denied their rights, and did not uncaringly give away their children.

Recommendation 1 *Page 158*

The Department of Community Services should provide funding to the Post Adoption Resource Centre to co-ordinate the provision of a post adoption resource kit. The content of the post adoption resource kit should be determined in consultation with the NSW Committee on Adoption and Permanent Care, the Department of Community Services, and the Department of Health.

Recommendation 2 *Page 159*

The post adoption resource kit, referred to in Recommendation 1, should contain information regarding support and counselling for parents who relinquished a child to adoption and information regarding support and counselling for adoptees.

Recommendation 3 *Page 161*

The Department of Community Services should ensure that the post adoption resource kit referred to in Recommendation 1 is distributed to all counsellors providing support and assistance with adoption and related issues, and to crisis services.

Recommendation 4 *Page 162*

The Minister for Community Services should establish a program of specific project grants for NSW parents support groups for the purpose of providing financial assistance for projects related to counselling, training, research and writing on the impact of adoption.

Recommendation 5 *Page 163*

The Department of Community Services should provide additional recurrent funding to the Post Adoption Resource Centre to create a designated position for rural and regional NSW.

Recommendation 6 *Page 163*

The Department of Community Services should provide funding for travel and related expenses to ensure adoption counselling and support services in rural and regional NSW have face to face contact with the designated worker.

Recommendation 7 *Page 166*

The Minister for Community Services should provide funding for a major independent research project on the reunion process and the short- and long-term impacts of reunion on adoptees, birth parents, adoptive parents and their families.

Recommendation 8 *Page 167*

In consultation with relevant interest groups, the Department of Community Services should review the current contact veto provisions of the *Adoption Act 2000* with a view to establishing procedures for periodic review of contact vetos. The review should consider whether it is appropriate to establish procedures for renewal and/or cancellation of contact vetos.

Recommendation 9 *Page 168*

The Minister for Community Services should contact her counterparts in all other States and Territories with a view to establishing uniform law and procedures in relation to contact vetos.

Recommendation 10 *Page 169*

The NSW government should review the current funding arrangements for Link-Up (NSW) to ensure that current funding levels for support, counselling and reunion assistance for indigenous people affected by past adoption practices are sufficient.

Recommendation 11 *Page 171*

The Department of Community Services should waive the fee for the provision of a supply authority by the Department of Community Services.

Recommendation 12 *Page 172*

The Department of Community Services should remove the additional costs for services provided by the Department including registration on the Reunion and Information Register; access to identifying information (prescribed information) from departmental files; attendance at an information meeting and a copy of a Search Guide.

Recommendation 13 *Page 172*

The Department of Community Services should take the necessary steps to ensure all adoption files are provided to the applicant at the same time as the supply authority.

Recommendation 14 *Page 173*

The NSW Attorney General should collaborate with his State and Territory counterparts to achieve greater consistency in adoption information legislation and procedures across Australia as a matter of urgency.

Recommendation 15 *Page 177*

The NSW Attorney General should consider whether there is a need to review the *Limitation Act 1969* to determine whether the Act should be amended to allow certain types of claims to proceed.

Recommendation 16 *Page 186*

The NSW Government should issue a statement of public acknowledgment that past adoption practices were misguided, and that, on occasions unethical or unlawful practices may have occurred causing lasting suffering for many mothers, fathers, adoptees and their families.

Recommendation 17 *Page 186*

The departments, private agencies, churches, hospitals, professional organisations, and individuals involved in past adoption practices should be encouraged to issue a formal apology to the mothers, fathers, adoptees and their families who have suffered as a result of past adoption practices.

Recommendation 18 *Page 189*

The Department of Community Services should provide funding to appropriate organisations or support groups for mothers to collect, collate, edit and publish comprehensive accounts of their adoption experiences.

Recommendation 19 *Page 189*

The Minister for Community Services should establish a research grants program for the purpose of investigating the effects of past adoption practice on mothers, and the issues surrounding the reunion process.

Recommendation 20 *Page 189*

The Minister for Community Services should establish a public education campaign on the effects of past adoption practices.

The process of adoption never ends. There is a lifetime knowledge that your child exists out there – somewhere. You pray so hard that all is well. There is a fine balance to be found where grief, pain and loss do not outweigh the hope for the safety, life and future of the child you brought into the world. And there is nothing you can do to protect them.

Submission 88

But I think that society is built on our collective actions and that just as they say an unexamined life is not worth living, an unexamined society can never learn from its mistakes. Perhaps the time has now come to face the fact that many of the babies given up for adoption – supposedly freely given to more deserving or suitable homes – were actually taken in a spirit of meanness and a moral judgement propped up by dishonesty. But I don't think it is so much a matter of apportioning blame as it is one of society accepting responsibility.

Submission 134

The reunion was not a panacea magically fixing everything that had gone before. For me it raised feelings in me that I (had) not allowed to surface for years. I lived in fear for a long time that (my daughter) would not want to see me again ... It has taken us years to arrive at this wonderful relationship we have today (it is eighteen and a half years now). However, I still grieve the loss of my daughter's childhood even though I am exceedingly grateful that we found each other.

Submission 159

Chapter 1 Introduction

This report provides valuable information about the adoption experience and is an account of the dramatic changes in adoption practice between 1950 and 1998. It is a testament to the effect of past adoption practice on the lives of many people in this State. The inquiry has heard allegations ranging from poor and inappropriate practices to very serious breaches of ethics and law. This report describes and examines adoption practices and the allegations of illegal and unethical behaviour.

This is the final report of the inquiry into adoption practices. In November 1998 the Committee published the transcript of evidence from 27 August 1998 to 19 October 1998 as the first interim report. The second interim report containing transcript of evidence from 16 June 1999 to 25 October 1999 was published in June 2000. This final report is based on all the evidence presented to the inquiry including submissions and formal evidence, as well as research material.

Research for this inquiry

- 1.1** The Committee received over 300 written submissions and took evidence from 57 witnesses including mothers, fathers, adoptees, adoptive parents, past practitioners and government representatives. The Committee also conducted a public forum in the Legislative Council Chamber, in response to the many requests from mothers for the opportunity to speak publicly about their experiences.¹ This was the first time a Standing Committee in the Legislative Council had used such an approach to take formal evidence. The evidence was often distressing for the 28 witnesses, and deeply moved members of the public and Committee members and staff. The Committee appreciates the courage of all those who participated.
- 1.2** A significant amount of original research was conducted for this inquiry. The Committee sought information from a range of sources including government departments, private adoption agencies, the Post Adoption Resource Centre and professional organisations. In addition, the support group Origins provided the Committee with a wealth of material which greatly facilitated the writing of the report. The openness of all those who provided information demonstrated a commitment to this inquiry and the process of developing an understanding of past adoption practices.²

The report – an overview

- 1.3** This report is divided into three parts. **Part One** - chapters 2, 3, 4 and 5 - provides background information on adoption laws, policy and practices. Part One relies mostly on secondary research material, rather than the submissions and evidence, and provides a context in which to understand the adoption experiences described in Part Two of the report. **Part Three** of the report looks at measures to assist people who have suffered and continue to suffer as a result of the adoption practices described in the previous chapters.

¹ For more information on the forum, see Appendix 3

² For more information on the archival research for this inquiry, see Appendix 6

- 1.4** **Chapter 2** deals with issues relevant to this inquiry in the period prior to 1950. The chapter outlines adoption legislation and practice up to 1950 with a view to providing a context in which to understand the changes that were to occur in adoption legislation and practice in the period 1950 to 1998. The chapter provides a description of the general attitudes towards women, the mothering of children and the family.
- 1.5** **Chapter 3** begins with an overview of the large numbers of adoptions occurring during the period 1950 to the mid 1970s. The chapter looks at attitudes to the unmarried mother and illegitimacy and options for allowing her to keep the baby. The chapter also provides a brief summary of adoption legislation and policy during this period. The *Adoption of Children Act 1965* is the most relevant legislation with regard to this inquiry and this chapter considers the introduction and implementation of the Act.
- 1.6** After the mid 1970s there was a growing acceptance of unmarried mothers and an increased number of formal and informal support mechanisms that allowed unmarried mothers to keep their babies. **Chapter 4** examines these changes and the 'adoption crisis' resulting from the downward trend in the number of babies made available for adoption. The chapter considers the impact of the changes in attitude and support on adoption legislation, policy and practice from the mid 1970s to 1998.
- 1.7** In **chapter 5** the Committee provides an analysis of 'unlawful' and 'unethical' adoption practices and provides the framework to interpret the evidence presented in Part Two. The chapter also presents a comparative table of the adoption laws relevant to this inquiry, as well as information on the new adoption legislation, the *Adoption Act 2000*.
- 1.8** **Part Two** – chapters 6, 7, 8 and 9 – provides a detailed description of the adoption experiences of mothers, and to a lesser degree fathers, adoptees and adoptive parents as told to the Committee in submissions and evidence. While the period under review - 1950 to 1998 - is discussed in each chapter the Committee has decided to focus on what it believes to be the 'key period', 1960 to the early 1980s. This period is significant to the inquiry for three reasons.
- It is the period of the largest number of adoptions in NSW with a peak of 4,564 in 1972.
 - It includes the introduction and implementation of the Adoption of Children Act.
 - The majority of submissions and evidence presented to this inquiry are concerned with adoption experiences in this period.
- 1.9** The material used in **Part Two** comes primarily from the submissions and evidence presented to this inquiry. This is supplemented by formal archival and secondary research material from the period. However, the Committee notes that only limited secondary material is now available, as many early policy documents and other records have not been kept or have been lost.
- 1.10** **Chapter 6** describes the unmarried mother's pregnancy, including her reaction to pregnancy as well as the response of family members and other support persons. The chapter looks in detail at accommodation and support provided at unmarried mothers'

homes and the other accommodation options for unmarried pregnant women. The special difficulties for pregnant women in rural and regional NSW are also addressed.

- 1.11** The birth experiences of many unmarried mothers are discussed in **chapter 7**, including the treatment of unmarried mothers during labour, access to the baby after the birth and the administration of medication.
- 1.12** In **chapter 8**, issues surrounding the signing of the consent form for adoption are examined. The chapter considers the advice and information provided to unmarried mothers considering adoption with regard to consent and revocation. Allegations of signing the consent under duress, signing blank forms, and failure to provide information on alternatives to adoption are discussed.
- 1.13** The post adoption period is discussed in **chapter 9**, concentrating on the period after the signing of the adoption consent. The chapter considers the limited counselling provided to mothers and fathers in the 1950s, 1960s and 1970s, and the availability and provision of information on the short- and long-term effect of adoption on mothers, fathers and adoptees.
- 1.14** **Part Three** of the report looks at measures to assist people affected by past practices and at adoption and related issues for the future.
- 1.15** The Committee presents a list of measures to assist those affected by adoption practices in **chapter 10**. The recommendations in this chapter arise out of the evidence presented to the Committee.
- 1.16** **Chapter 11** provides a brief overview of the issues for the future including those arising from the recent introduction of the *Adoption Act 2000*. The chapter briefly discusses issues which arise from such matters as overseas adoptions, donor insemination, and services for state wards.

Terminology in the report

- 1.17** The terminology used in the report was discussed at length. The Committee understands that for some people, the use of the term 'birth mother' is problematic. For this reason the Committee has preferred to use the term 'mother' and 'father' to refer to those people who have relinquished their child for adoption. In a minority of cases, 'birth mother' and 'birth father' have been used in the report for the purpose of clarity. The parents who received a child through adoption are called adoptive parents, and the children are referred to as adopted people or adoptees.

The evidence to this inquiry

- 1.18** The majority of evidence and submissions presented to this inquiry came from women who were single at the time of their pregnancy and the adoption. The Committee did not hear from women who were married when they gave a child up for adoption, nor from single mothers who kept their babies. As discussed below, indigenous women did not present evidence to the inquiry. Due to the nature of the evidence, this report deals mainly

with adoption practices as they relate to single, non-indigenous women who relinquished a child to adoption.

1.19 The Committee believes that the evidence of the majority of witnesses critical of past adoption practices may likely be attributed to a wider circle of relinquishing parents who are not prepared to re-live their traumatic experiences by giving testimony. The very personal and sensitive nature of the inquiry's subject matter may have discouraged people from presenting formal evidence and therefore the Committee accepts that there may be many more people in the community who have had similar experiences.

1.20 The Committee is also mindful of the total number of adoptions in the period under review and recognises that many people look back on their adoption experience and accept that they made the right decision at the time and did not feel the need to participate in the inquiry. The Committee acknowledges that the experiences and the views of the women who presented evidence to our inquiry may not necessarily reflect the experiences of others affected by adoption.

1.21 The inquiry received a considerable number of submissions from women whose adoption experiences occurred in another State or country. The terms of reference direct the Committee to consider adoption practices in NSW, and therefore we have not been able to address specific concerns raised about adoption practices in other jurisdictions. However, the information provided by all submissions greatly enhanced the Committee's understanding of past adoption practices and their effects.

The adoption of Aboriginal people

1.22 The experience of adoption for Aboriginal people is unique, and as explained in the *Bringing them home* report is "incompatible with the basic tenets of Aboriginal society".³ The issue of the adoption of Aboriginal and Torres Strait Islander children is dealt with extensively in the *Bringing them home* report. The Committee did not receive evidence from indigenous people and therefore this report does not deal in detail with past adoption practices as they relate to Aboriginal people or Torres Strait Islanders. This report does consider the important issue of support for Aboriginal people for reunions and family tracing.⁴

³ Human Rights and Equal Opportunity Commission, *Bringing them Home, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, HREOC, April 1997, p.464

⁴ For more information, see chapters 10 and 11

Key players in adoption

1.23 Responsibility for delivering adoption services has been shared by the Department of Community Services⁵ and the Department of Health⁶ and their predecessors, and private adoption agencies primarily run by various church organisations. In addition, NSW public and private hospitals and maternity homes have played a major role in adoption. The following section briefly describes the respective roles of these organisations and agencies in the delivery of adoption services and provides a background to the report.

NSW Department of Community Services

1.24 During the period under review, the Department⁷ and its officers have been responsible for a broad range of adoption activities. These include: taking and witnessing consents, assessing prospective adoptive parents, providing care for children prior to their adoption, matching and then placing children with adoptive parents, providing reports to the Supreme Court and licensing private adoption agencies.

1.25 The Department's role expanded and changed after the introduction in 1967 of the *Adoption of Children Act 1965* when it became both an adoption agency and a licensor of private agencies. The dramatic reduction in the number of 'healthy' white babies available for adoption in the early 1970s, referred to as the 'adoption crisis', had a marked effect on the Department's role in adoption over the following twenty years. This issue is discussed in chapter 4.

NSW Department of Health and public and private hospitals

1.26 The involvement of the NSW Department of Health in the delivery of adoption and related services appears to have been minimal. The Department of Health did not develop formal policies on adoption before 1982 when the then Health Commission issued a policy on the treatment of mothers in obstetric hospitals. The Health Department told the Committee that it was not responsible for the development of hospital policy until the introduction of the *Area Health Services Act 1986* when the Health Department gained a statutory power to direct or control public hospitals. Before then, public hospitals were separate legal entities and had considerable autonomy over their day to day activities. A full description and discussion of this policy can be found in chapter 7.

⁵ 1926 to 1957 Child Welfare Department; 1957 to 1973 Department of Child Welfare and Social Welfare; 1973 to 1987 Department of Youth and Community Services; 1987 to 1991 Department of Family and Community Services; 1991 to present, Department of Community Services.

⁶ 1929 to 1972 Hospitals Commission; 1972 to 1982 Health Commission; 1982 to present, Department of Health.

⁷ The Department of Community Services and its predecessors are referred to in this report as 'the Department'.

- 1.27** Public hospitals played a major role in adoption during the period under review, particularly large metropolitan and regional obstetric hospitals. The major public hospitals referred to during this inquiry included Royal Hospital for Women, Women's Hospital Crown Street, Hornsby Hospital, King George V Memorial Hospital for Mothers and Babies and Newcastle Hospital. These hospitals offered services to all parties to an adoption, including counselling and antenatal services to women considering adoption, the care and assessment of babies being relinquished for adoption, as well as counselling and treatment for men and women with fertility problems who were prospective adoption parents.
- 1.28** A number of private hospitals in both Sydney and rural and remote regions also provided these services, including St Margaret's Hospital and Queen Victoria Hospital. Most of these hospitals were owned and managed by religious organisations, although some received government funding.
- 1.29** For more information on the treatment of unmarried mothers while in hospital for the delivery of their baby, see chapter 7.

Private adoption agencies

- 1.30** During the period under review, adoptions were initially arranged either privately by solicitors and doctors, or by the Department of Child Welfare. In 1967, after the commencement of the Adoption of Children Act, adoptions were arranged by private agencies and by the Department.
- 1.31** Until the late 1970s most of the established churches ran adoption agencies, including the Anglican Adoption Agency, Catholic Adoption Agency, Salvation Army Adoption Agency, Methodist Adoption Agency, Presbyterian Adoption Agency, and the Seventh Day Adventist Adoption Agency. By 1978, only three of these remained - the Catholic, Anglican and Seventh Day Adventist Agencies, with the latter closing in 1985. In 1985 Barnardos was licensed although initially the Department brought the applications to Court as all children were wards of the state. Barnardos has also been an approved fostering agency for over 20 years.
- 1.32** Two of the largest and longest established agencies, Anglicare and Centacare gave evidence to this inquiry. In 1961 the Anglican Church opened Carramar maternity home and the Anglican Adoption Agency commenced as a part of Carramar. With the implementation in 1967 of the Adoption of Children Act, the Anglican Adoption Agency was set up as a separate entity and adoptions were arranged by the agency for the women at Carramar, as well as other women outside the Carramar network. In 1976 the agency became Anglicare Adoption Agency and is now known as Anglicare Adoption Services.⁸ The Catholic Adoption Agency (CAA) began in 1967 as an adoption service under the auspices of the Society of St Vincent de Paul. Until 1990 CAA functioned as a partnership agency between the Society of St Vincent de Paul and the NSW Bishops Conference. Centacare

⁸ Croft evidence, 30 September 1998

Adoption Services (NSW) was established in 1990 as a service which incorporated the CAA.⁹

- 1.33** Private adoption agencies were required under the Adoption of Children Act to employ qualified social workers. The nature of the service provided by adoption agencies has changed over time, and many of these changes are detailed in this report. In general terms the agencies assessed prospective adoptive parents, arranged the placement of children, took adoption consents, and provided pre- and post-adoption counselling and support.

Maternity homes

- 1.34** The major churches, some private agencies and several hospitals provided accommodation for single pregnant women in the months or weeks preceding the birth and for a short while after, in maternity homes or in wards or annexes attached to hospitals. The major maternity homes mentioned during this inquiry include St Anthony's, Carramar and Queen Victoria Hostel in Sydney, Villa Maria in East Maitland, and Hillcrest in Newcastle.
- 1.35** Both the Anglican Church and the Catholic Church operated maternity homes. The Anglican Church established Carramar in the Sydney suburb of Turramurra to provide accommodation to unmarried mothers. For antenatal care and the delivery of the baby, residents went to Hornsby Hospital unless they were being cared for by another doctor. As explained above, the adoption was either arranged by Carramar or the Anglican Adoption Agency. In 1985, Carramar was relocated to the western Sydney region and now accommodates up to six mothers.
- 1.36** St Anthony's Maternity Home, Croydon was founded by the St Vincent de Paul Society in 1922 and until 1941 catered only for single mothers who had given birth. In June 1953, the Home was transferred to the control and management of the Sisters of St Joseph and was primarily for Catholic girls. While some unmarried mothers were accommodated at St Margaret's Hospital, Darlinghurst, also run by the Sisters of St Joseph, by the late 1960s all accommodation was transferred to St Anthony's. The Sisters of St Joseph continues to operate a Pregnancy Support Unit at St Anthony's, providing accommodation to unmarried mothers. All adoptions are handled through Centacare.
- 1.37** For more information on the conditions and operation of maternity homes, see chapter 6.

The Standing Committee on Adoption

- 1.38** The Standing Committee on Adoption was established in 1967, originally under the auspices of the NSW Council of Social Services to assist with the implementation of the Adoption of Children Act. The Committee continued to exist after implementation and provided a professional forum where social workers could discuss practice and where information on adoption matters could be disseminated. The membership of the Committee was expanded in the 1970s to include birth parents, adoptees and adoptive parents. The Committee was pivotal in changing adoption practices, and in particular, alerting the Department of Health to the rights of birth parents to see their child in

⁹ Submission 257

hospital.¹⁰ The Standing Committee members worked consistently to improve the treatment of unmarried mothers and lobby for uniform policy in NSW hospitals. The Standing Committee on Adoption today has representatives from agencies, organisations and support groups and individuals with an interest in adoption and permanent care.¹¹

¹⁰ See chapter 7

¹¹ Submission 245

Chapter 2 Early adoption laws and attitudes

Adoption as we understand it today is a legal process by which a person becomes the legal child of the adoptive parents and legally ceases to be the child of the natural parents. Until recently, this legal act was intended to sever all emotional ties between the child and the natural parents and create new parental relationships in the adoptive family. While other states of Australia introduced adoption as early as 1896, NSW first introduced legislation in 1923. Since that time, there have been a number of significant changes to adoption laws and practices.

This chapter presents a brief background to the development of early adoption legislation and policies with a view to providing a context in which to understand the changes that were to occur in the period 1950 to 1998. The chapter also provides a description of developing attitudes to women, the rearing or mothering of children and the family in the period up until the 1960s.

Adoption legislation and practice prior to 1923

- 2.1** While adoption has been practised by most societies and references can be found in Greek mythology and the Bible, legal adoption in western societies is a more recent phenomenon. In the past, adoption was a vehicle for serving the needs of childless adults rather than the needs of homeless children. In the pre-industrial era, adoption was common practice as a means of “securing heirs, satisfying political requirements, meeting religious needs, securing additional labour for the family, and building family alliances.”¹²
- 2.2** In 1851 the US state of Massachusetts was the first western state to legalise adoption. Western Australia was the first state in Australia to introduce legislation on adoption in 1896. In NSW, prior to the passage of legislation in 1923, there was provision for ‘de facto’ adoptions.¹³ Between 1800 and 1886 the Protestant and Catholic churches operated the Orphan Schools of NSW. While most children remained in these schools until they were 12 years old when they were apprenticed to a trade, a small number of children were adopted.¹⁴ In the majority of these cases, the adopted children were recorded as having neither parent living. Prospective adopting parents were very often distant relatives or known to the natural parents of the child. Applications for written permission to adopt a child were made to the Governor and in most cases were accompanied by a recommendation from a clergyman or another prominent citizen.
- 2.3** By the late 1800s most people felt that the rearing of children was best done in families. This change in attitude and in government policy resulted in the movement away from large congregate care for children to foster care, boarding out arrangements and then adoptions. It should be noted, however, that despite the emergence of child welfare

¹² D. Brodzinsky & M. Schechter, (Eds), *The Psychology of Adoption*, New York, Oxford University Press, 1990

¹³ M. Horsburgh, ‘Insecure Families, Early Adoption Practices in New South Wales’, *Australian Child and Family Welfare*, Vol 2, No.1, 1978, p.3

¹⁴ *ibid*, p.18. According to Horsburgh, between 1840 and 1870, about 16 children were adopted, ranging in age from 3 to 12 years old.

services and concern for homeless or institutionalised children, a family placement was often not achieved especially for children beyond the infant years. Many of these older children spent their time in state or privately run institutions or in long-term foster care.

- 2.4** A significant change in the care and protection of parentless children was the *State Children's Relief Act 1881*. This Act resulted in the shift in government policy from large institutions for the care of children to foster care or the practice of 'boarding out'. The State Children's Relief Board was established to administer the Act and was responsible for foster care and 'adoptions'. The Act referred to 'adoptions', but did not outline any process for effecting an adoption. Children adopted under the Act were not granted full legal recognition as the children of the adoptive parents. According to one commentator, adoption at this time was essentially:

foster care without the payment of any subsidy to the foster-parent. The legislation contained none of the features necessary for legal adoption as practiced today.¹⁵

- 2.5** The practice of boarding out, while resisted by institutions, became the preferred option for the care of orphaned, abandoned or neglected children.

The social responsibility to provide family care as the only adequate preparation for life for children who would otherwise be deprived of this opportunity, as well as the resulting financial savings to the State, strongly recommended this form of care.¹⁶

- 2.6** The practice of 'baby farming'¹⁷ was one of the major issues driving reforms of child protection and adoption laws during the early part of the 20th century. One of the most notorious and extreme cases of baby farming was revealed in the Makin case. In November 1892 the press reported that Mr and Mrs Makin would offer to take the baby of an unmarried mother on the payment of a lump sum, and rear it as their own.

After the child and money had been handed over and the mother had left, the Makins would murder the baby, bury it in the garden and begin looking for another. Investigating police found twelve little bodies in the back-yards of houses the unnatural couple had occupied in Redfern, MacDonaltdown and Chippendale.¹⁸

- 2.7** The abandonment of babies by those unable or unwilling to care for them was also a cause for concern at this time. The stigma of single motherhood was so great that for some women the only option was to abandon the baby. In 1890 a Member of Parliament argued

¹⁵ *ibid*, p.19

¹⁶ M. McDonald, A. Marshall, *The Many Sided Triangle – A Book about Adoption in Australia*, forthcoming, Melbourne University Press, chapter 2

¹⁷ *ibid*. 'Baby farm' is defined by the Macquarie Dictionary as 'an establishment providing board and lodging for young children and babies at commercial rates'.

¹⁸ 'Adoption in New South Wales', *Progress*, NSW Public Services Board Journal, Vol 3, No 2, February 1964, p.13

that the State should take responsibility for foundlings in order to “prevent the children from being murdered and (to) save the people who were responsible for their deaths from such horrible degradation”.¹⁹

- 2.8** The *Children’s Protection Act 1902* and numerous later amendments were passed in an attempt to address problems such as abandonment and baby farming. The Act reflected serious concerns about the safety of children and the potential for them to be used as slave labour or for immoral purposes, or to be killed as in the Makin case. The Act required the registration of all births and the supervision and registration of nursing homes and private homes caring for children aged four or less. While there were no provisions to ensure that adoptive parents were checked, children who were adopted were liable to be visited and inspected until the age of 19 years. Under the legislation, adopted children were to be sent to school from age 6 to 14. The birth parents were allowed to visit once per quarter for one hour if they were of ‘good character’.²⁰
- 2.9** Despite these legislative changes, baby farming continued during the early part of the 20th century and was openly advertised in the newspapers. The State Children’s Relief Board had no power to control the advertisements or the ensuing ‘adoptions’ despite repeated requests from the Board to amend the law. It was not until the introduction of the 1939 Act that baby farming became illegal.
- 2.10** One of the major features of early de facto adoption was the relative lack of permanency. Prior to 1923 adoption was effected by a written agreement signed by the adoptive parents, however the natural parents could remove the child at any time. In addition the Board could “reclaim” the child should the adoptive parents choose to leave NSW. Many prospective adoptive parents saw these conditions as too restrictive and were hesitant about taking any child but an orphan or foundling.²¹

First adoption laws in 1923

- 2.11** The first legislation in NSW to fully regulate adoption was the *Child Welfare Act 1923* which was based largely on the Western Australian legislation. The Act consolidated previous laws relating to child protection and juvenile justice and included major new provisions to govern adoption. The Act also introduced limited financial support for single mothers who wished to keep their child.
- 2.12** The Act abolished the State Children’s Relief Board and created the Child Welfare Department. It gave the Supreme Court of NSW the power to make or refuse to make an adoption order, and specified conditions that must be satisfied before an adoption could be

¹⁹ D. Melville, quoted in S. Swain & R. Howe, *Single Mothers and their children*, Cambridge University Press, 1995, p.114. According to Swain and Howe, while it was popular perception that single mothers would do anything to be relieved of their child, in reality most mothers who abandoned their children went to extraordinary lengths to ensure their survival.

²⁰ Submission 260

²¹ ‘Adoption in New South Wales’, *Progress*, NSW Public Services Board Journal, Vol 3, No 2, February 1964

made. In particular, the Act specified that if the parents of the child were married, both parents could consent to adoption. If the child was 'illegitimate' only the mother and any guardian needed to consent. Parental consent could be dispensed with if the Court believed that the mother or guardian had abandoned the child. In effect, the Act terminated all rights and responsibilities between the child and his or her birth parents, except for inheritance, and transferred them to the adoptive parents.²²

2.13 The Act was an attempt to encourage prospective adoptive parents to take long-term care of children by giving them legal status as parents. The provisions in the Act were intended to encourage couples to adopt children by removing the insecurity of previous arrangements.²³

2.14 Debate in the NSW Parliament on the Child Welfare Bill 1923 reflected differing attitudes to adoption. Parliamentarians argued at one and the same time for the rights of single mothers to keep their babies, as well as the need for permanence in adoption for adoptive parents. Sir Joseph Carruthers applauded the assistance the Bill would give to unmarried mothers and their children and suggested:

It seems to me to be an inhumane provision of the law which compels the department to force the separation of the mother and the child because of a lapse on the part of the mother. I do not think any woman could take her place if she desires to act as the mother of her own child.²⁴

2.15 Others in the Parliament supported the Bill on the basis that it better protected the rights of the adoptive parents.

I am pleased that better provision is to be made in regard to the adoption of children. The position to-day is farcical. At any period the natural parents of an adopted child can come along and claim it and drag it away from foster parents who were doing their best to equip it for the struggle of life.²⁵

Initial resistance to adoption

2.16 Despite increased recognition of the importance of rearing children in a family environment, there was some resistance to the legislative changes, and to the notion of legalised adoption. One of the main concerns was that the legitimisation of children by adoption would be an incentive for women to act 'irresponsibly' and produce more children. Others were anxious that children might be adopted for immoral purposes or for slave labour.

²² This Act excluded the adopted child from automatic rights of inheritance from the adoptive parents, preserving rights of inheritance from the birth parents.

²³ NSW Law Reform Commission, *Review of the Adoption Information Act, 1990*, NSW LRC, Sydney, 1992, p.9

²⁴ Sir J. Carruthers, MLA, NSWPD, 1923, p.1947

²⁵ F. Burke, MLA, NSWPD, 1923, p.1441

- 2.17** At the turn of the last century, surrendering of children to foster care or adoption was not seen to be a positive or responsible act on the part of the natural parents. Mothers and fathers who surrendered their children were regarded as morally corrupt and not deserving of government attention. The introduction of the Child Welfare Act in 1923 reflected a shift in thinking during the first half of the 20th century in which a mother, once perceived as having abandoned her child by allowing an adoption, was increasingly seen as taking a socially responsible action.
- 2.18** Another source of resistance to adoption, and one of the reasons why adoption was initially slow, was that couples were concerned about adopting children from different backgrounds to their own. It was the prevailing belief that a woman's inferior and immoral character would be passed on to the child, making such children undesirable for adoption. Consequently, while the 1923 Act heralded a major policy shift, it did not immediately result in significant numbers of adoptions. For example, in 1924 there were only 28 adoptions.²⁶

The Child Welfare Act 1939²⁷

- 2.19** The *Child Welfare Act 1939* was largely a revision of the 1923 Act. One of the major changes was that the 1939 Act finally outlawed baby farming after repeated requests to do so by many members of the community. Section 171 of the Act stated that:
- It shall not be lawful for any person adopting a child under this part to receive any premium or other consideration in respect of such adoption except with the consent of the court.²⁸
- 2.20** This Act did not prohibit the practice of private adoptions. In this type of adoption, the parties made the arrangements themselves, usually with assistance from an intermediary such as a doctor, a matron of a hospital, a minister of religion or a solicitor. Private adoptions were extremely common under the Child Welfare Act, and by 1961 private arrangements represented 48 per cent of the total number of orders made by the Supreme Court.²⁹
- 2.21** The Act also widened the Supreme Court's powers with regard to consent requirements. There were provisions for the adoption order to be revoked or varied although there were no provisions in the Act setting out the circumstances under which a revocation could be sought. A parent could revoke consent until an adoption order was made.

²⁶ NSW Registry of Births, Deaths & Marriages, *Registered Adoptions in NSW*, table issued by the Registry, 31 October 2000. The statistics on adoptions and ex-nuptial births in NSW presented in this report, unless otherwise noted, are those issued by the Registry. A full list of the number of adoptions in NSW between 1924 and 1999 can be found in Appendix 4.

²⁷ An overview of the *Child Welfare Act 1939* is presented in Table 2 in chapter 5.

²⁸ Adoption in New South Wales, *Progress*, NSW Public Services Board Journal, Vol 3, No 2, February 1964

²⁹ Submission 260

- 2.22** There were minimal provisions in the Act for the natural parents. There was a provision for wardship to allow for a parent who was uncertain about adoption to take time in making up their mind about adoption. It was also possible for a parent to nominate the adoptive parents. The Act clearly specified that the court had to be satisfied that the child's welfare and best interests would be promoted by the proposed adoption. An adoption order had the effect of conferring legitimacy on a child born out of wedlock.

Attitudes to women, children and adoption

- 2.23** This section looks briefly at the history of attitudes to women in Australia and in particular single mothers. The section also considers the stigma of illegitimacy and the change in attitudes towards adoption after the 1940s.

Single and pregnant

- 2.24** There have been numerous histories written on women and one of the better known Australian works was Anne Summers' *Damned Whores and God's Police*.³⁰ Broadly speaking, Summers argued that women in Australia have been restricted from constructing their own identities and have had a very limited choice about what they do with their lives. According to Summers, a legacy of the first fifty years of colonisation of this country was the notion that women's function was embodied in two stereotypes – damned whores and God's police. The former were viewed primarily as objects of sexual gratification while the later were the "wives of men and mothers of children" entrusted with the moral guardianship of society.

- 2.25** According to this dualistic understanding of women's role in society, single mothers often elicited ambivalent reactions from the community. Single mothers were conforming to the role of 'God's Police' by being mothers but transgressed it by not being married. Single mothers were 'whores' in so much as they were not married, however, as Summers explained, women were offered a redemption for their 'sin' by either accepting a 'shot-gun marriage' or by giving the child up for adoption.

The woman who did this would have to endure some whispering and moralising but she was generally regarded as being deserving of 'a second chance' to prove her willingness to take socially approved routes to female fulfilment.³¹

- 2.26** In their book on single mothers and their children, Shurlee Swain and Renate Howe argued that the stigma attached to being a single mother lies deep in history. While this stigma is inherent in all societies, they suggested, the way it is defined in Australia is cultural and largely a result of the inherited British experiences of Christian morality and the economics of poor relief.³²

³⁰ A. Summers, *Damned Whores and God's Police*, Penguin Books, Victoria, 1975, p.21

³¹ *ibid*, p.448

³² In Britain the Poor Laws were introduced in 1601 and ensured that women were provided with shelter during confinement and a place to leave their children if they were unable to provide for

The sanctity of marriage was central to Christianity, offering a space within which sexuality, and particularly female sexuality, could be both expressed and controlled. The single pregnant woman provided a highly visible challenge to such control, yet the concomitant belief in the sanctity of human life meant that her punishment had to be carried out alongside a duty of care.³³

- 2.27** While social class played a role in the way an unmarried woman was perceived - working class girls 'went wrong', while those from the middle class were 'led astray' - the stigma of being pregnant regardless of background was a 'fate worse than death'. For many women the only ways out were abortion or suicide or abandonment of the child. In their comprehensive study of Australian birth control, Seidlecky and Wyndham explained that Belmore Park near Sydney's Central Station was a "dumping ground" for abandoned babies. This note was attached to a baby left in the park in 1874:

The mother of this unfortunate child and also the father are members of the Protestant faith, and attendants at St Andrew's Cathedral. To avoid the shame that hangs over every woman who stoops to folly, this night my intentions are to go to (the) North Shore, and from there to dive into eternity.³⁴

- 2.28** Abortion and infanticide have been used in an effort to rid a single woman of her unwanted child throughout history.³⁵ By the mid 1850s abortion and advertisements for abortifacients were well known in Australia and with the establishment of medical schools in the last half of the century, doctors took over the practice of abortion. While abortion was available to women in this time, it could be hazardous if practised by those unskilled in the procedure with risks such as haemorrhage and severe infection. Despite these well publicised risks Seidlecky and Wyndham argued that women continued to seek out this option as the only way out of what they saw as an "intolerable situation".³⁶
- 2.29** For other young women who found themselves pregnant in this early period, another option was for the child to be raised by other family members such as the young woman's own mother, her sisters or aunts. In other instances, the young child was taken by friends of the family who were not able to have their own children.³⁷
- 2.30** The single pregnant woman in the 20th century continued to be seen as irresponsible, immature and unstable and professionals saw them as both a social and moral problem. A

them. In return, the child could be forcibly removed and the woman could be subjected to whipping and compulsory labour.

³³ Swain & Howe, *op.cit.*, 1995, p.3

³⁴ S. Seidlecky & D. Wyndham, *Populate and Perish, Australian women's fight for birth control*, Allen & Unwin, Sydney, 1990, p.11

³⁵ These methods were not confined to single women. Particularly from the late 1800s married, pregnant women also used abortion as a form of birth control.

³⁶ *op.cit.*

³⁷ In the course of the inquiry, the Committee received anecdotal evidence that it was common at this time for parents, aunts, siblings and family friends to informally adopt a child of a young pregnant relative and raise that child as their own.

1953 study of 336 unwed mothers and their children by members of the Australian Association of Social Workers recognised that:

Social and moral disapproval of unwed motherhood is inherent in our culture. Wed motherhood, on the other hand, is highly revered.³⁸

2.31 The moral and economic dilemma of the single pregnant woman was a cause for concern for the community and professionals.

As for the problem of the unmarried mother herself, if she has by her own efforts or with help been able to give away the living symbol of her sin or mistake and pick up where she left off, she is solved as a social problem. If she keeps her child but needs no economic support, she is lost to public view. So, so far as is known, she is no problem. The assumption is she is paying for her transgression, and this is a morally satisfying assumption.

If, however, she keeps her child and requires economic aids for the support of herself and her child, she is not paying. Indeed, it commonly appears that perhaps she is being paid for her sins, and by such payment, even encouraged to further sexual irresponsibility.³⁹

2.32 The 'plight' of the unmarried mother was a cause of considerable concern among adoption professionals, and especially social workers responsible for counselling these young women. By the 1950s adoption had become the preferred option among professionals strongly influenced by psychoanalytic theory suggesting that out of wedlock pregnancy was an unconscious response to fundamental unmet needs. Theorists argued the unmarried pregnant girl was acting out her own need to be nurtured and loved.⁴⁰

2.33 American social worker Leontine Young – whose theories strongly influenced professionals in Australia⁴¹ – argued that only those women who agreed to part with their child had any hope of regaining their place in society and resolving their internal conflicts. The adoption of the baby was seen to be in the best interests of the child, as well as in the best interests of the young woman.

What chance has the baby of a girl, who in pregnancy outside marriage, reveals immaturity and may well be denied the support of a good family setting. The girl if we give her time to help her understand her own predicament in terms of her childhood experiences, will usually see the advantage to her child if he is placed with carefully selected adoptive parents immediately after birth.⁴²

³⁸ Welfare of Mothers & Babies Study Group, *Unwed Mothers and their children. A report on a study project*, 1953, p.1

³⁹ National Association of Social Workers, *Social Work and Social Problems*, 1964, quoted in Graham evidence, 25 October 1999

⁴⁰ D. Brodzinsky & M. Schechter, *op.cit.*

⁴¹ The counselling and advice provided to young women during their pregnancy, the birth and at the signing of consent is discussed further in Part Two.

⁴² L. Young, quoted in S. Swain & R. Howe, *op.cit.*, p.141

The protection of the child from illegitimacy

2.34 As already explained, a central principle in the development of adoption laws was to provide for the care and protection of children. At the turn of last century practices such as baby farming and abandonment caused real concern about the physical and moral safety of children. With the abolition of such practices concern about the care and protection of children turned to illegitimacy and the provision of a 'normal' two parent family life. In 1952, Dr John Bowlby prepared a monograph for the World Health Organisation (WHO) in which he wrote about the care of children.

The proper care of children deprived of a normal home life can now be seen to be not merely an act of common humanity, but to be essential for the mental and social welfare of a community.⁴³

2.35 International bodies such as the United Nations and WHO maintained an ethos based on ensuring the well being of the child by providing him or her with two parents. In 1953 WHO produced a report in which adoption is regarded:

as the most complete means whereby family relationships and family life are restored to a child in need of a family. When constituted of mother, father, and children, the family shows itself to be the normal and enduring setting for the upbringing of the child.⁴⁴

2.36 The report argued that the object of adoption is to establish a relationship between the child and the adoptive parents, which resembles the relationship that exists between parents and natural children. The report explained:

(W)hat the young child needs is sustained parental care, this is normal mothering with the accompanying enrichment of relationships with a father, brothers and sister, relatives and friends. He needs the security of a family setting.⁴⁵

2.37 This international concern was reflected in the attitudes and opinions of Australian policy makers. The NSW Child Welfare Department understood its role as an advocate for the child. In its 1953 Annual Report, the Department described the child as "usually a helpless baby...The Department, therefore, has a very grave responsibility to these children".⁴⁶

2.38 Similarly, social workers were concerned about the powerlessness of the baby. As the Sister in Charge at the Women's Hospital Crown Street explained in 1967:

I think we cannot stress too much the social worker's great responsibility to the child: in fact this is of supreme importance in adoption practice. The other two

⁴³ J. Bowlby, *Maternal Care and Mental Health*, World Health Organization, Monograph Series No.2, 1952, p.157

⁴⁴ *Joint UN/WHO Meeting of Experts on Mental-Health Aspects of Adoption*, World Health Organization, 1953, p.3

⁴⁵ *ibid*, p.6

⁴⁶ Child Welfare Department, Annual Report, 1953

parties in the procedure may at least be articulate and have their say. The baby cannot.⁴⁷

Adoption as a popular option

- 2.39** From the 1940s attitudes changed towards adoption, which up until this point had been a relatively unpopular option. One of the unexpected consequences of World War II was the rise in the number of children born out of wedlock. Along with the increase in numbers of ex-nuptial children, the emphasis on family and children seemed all the more important in the period after the Second World War. As men returned from war, women were expected to leave the jobs they had taken as a result of the war and return to the home. There was considerable emphasis placed on 'family' and the stigma of being infertile and childless was very powerful.
- 2.40** Theories on bonding, IQ testing for babies and genetic studies developed at this time made adoption a more desirable option for many people.⁴⁸ Such theories developed the notion that children could be placed with other, unrelated families and be 'saved'. Studies on attachment and bonding suggested that the child could completely bond to another person, and suffer no ill effects, provided that person was available shortly after birth.
- 2.41** Dr John Bowlby was one of the most influential writers in the period on early childhood bonding and attachment. Dr Bowlby conducted numerous studies of children in institutions and concluded that early maternal deprivation was likely to adversely affect the child and result in long term behavioural problems.⁴⁹
- 2.42** There was also a major shift away from heredity and genetic determinism to environmental concerns – the nature versus nurture debate. The work of Bowlby and others suggested that children did not necessarily carry the 'ill effects' of their heredity. Research studies of adopted children were reported as finding that:
- these adopted children as adults are achieving at levels consistently higher than would have been predicted from the intellectual, educational or socioeconomic level of the biological parents, and equal to the expectancy for children living in the homes of natural parents capable of providing environmental impacts similar to those which have been provided by the adoptive parents.⁵⁰
- 2.43** These changes in theory, attitude and practice resulted in an increase in the number of adoptions. Whereas previously, there had been concerns that children would retain 'anti-social' traits that led to pregnancy out of wedlock, by the 1940s adoptions by couples unrelated to the child became more acceptable. The promotion of adoption as an option

⁴⁷ *Australian Journal of Social Work*, c.1967, p.14

⁴⁸ Standing Committee on Social Issues, op.cit.

⁴⁹ J. Bowlby, op.cit.

⁵⁰ Benet, 1976 in Annexure, NSW Legislative Council, Standing Committee on Social Issues Report No.1, *Assessing Adoption Information*, October 1989

meant that within a short period of time adoptions in NSW rose from 982 in 1939 to 2,037 in 1946.

Conclusion

2.44 The development of adoption legislation in the early 20th century arose at least in part out of a need to provide an effective way to ensure child protection and safety. At the turn of the century, the emphasis was on protecting children from the harm and moral danger inherent in the practices of baby farming and abandonment. The movement to a boarding out or fostering system under the *State Children's Relief Act 1881* was a major policy shift and provided the pathway to later adoption legislation. Early adoption legislation addressed concerns with previous arrangements including the lack of permanence and secrecy. In addition, the *Child Welfare Act 1939* made baby farming illegal. Both the 1923 and 1939 Acts were developed in the context of providing for the care and protection of children from the dangers of abandonment and baby farming and then protection from illegitimacy. The Acts also sought to make the adoption arrangement permanent and secure for the adoptive parents. By the 1940s, adoption was an increasingly popular option, as demonstrated by the rise in the number of adoptions. Adoption had come to be seen as an ideal and convenient solution to the social problems of illegitimacy, infertility and ex-nuptial pregnancy.

⁵¹ NSW Registry of Births, Deaths & Marriages, op.cit., 2000

Chapter 3 Adoption 1950 to the early 1970s

This chapter examines developments in adoption law and policy from the 1950s to the early 1970s. Adoption practices during this period were influenced to a large extent by increased numbers of babies offered for adoption. The need to find enough parents willing to adopt a rapidly expanding number of babies tended to obscure the interests of the child and relinquishing mother. Key aspects of adoption practice during these years are discussed, including the approval process for adoptive parents, 'matching' and the deferral of adoption of babies with a disability or a 'problematic' social background.

Adoption practice was transformed in the late 1960s by the introduction in 1967 of the *Adoption of Children Act 1965*. The chapter describes the key reforms delivered by the Act, including the prohibition of private adoptions, the licensing of private agencies, the introduction of a set period of time in which a consent to an adoption could be revoked and restrictions on access to adoption information. Most importantly, the new Act incorporated the principle that in every adoption, the interests of the child should be paramount. Non-adoption alternatives during this period, including income support provided by State and Commonwealth governments, are also considered.

Trends in ex-nuptial pregnancy and adoption

3.1 From the mid-1950s until the early 1970s, the number of ex-nuptial births in NSW increased steadily. Ex-nuptial births also rose as a proportion of the total birth rate. For instance, in 1955, there were 3024 ex-nuptial births, which represented 4.06% of all births in NSW. By 1969 the number had risen to 6,860, or 7.97% of all births. The trend was Australia-wide.

Table 1 Ex-nuptial birth rate 1950 - 1975⁵²

Year	Registered Births	Exnuptial Births	%	Year	Registered Births	Exnuptial Births	%
1950	71592	2914	4.07	1963	84065	4823	5.73
1951	72069	2991	4.15	1964	80518	5427	6.74
1952	74196	2959	3.98	1965	78069	5700	7.30
1953	74890	3013	4.02	1966	77758	6024	7.74
1954	73125	2889	3.95	1967	78841	6300	7.99
1955	74407	3024	4.06	1968	81696	6622	8.10
1956	75714	3305	4.36	1969	86036	6860	7.97
1957	79456	3438	4.32	1970	88448	7455	8.42
1958	80045	3832	4.78	1971	98466	9674	9.82
1959	80866	4017	4.96	1972	95278	9766	10.25
1960	81983	4114	5.02	1973	87332	8726	9.99
1961	86392	4575	5.29	1974	86162	8371	9.71
1962	85439	4771	5.58	1975	81172	8319	10.24

⁵² NSW Registry of Births, Deaths and Marriages

- 3.2** The increase in out of wedlock pregnancies during this period can be attributed to several factors. By the late 1960s there was a larger cohort of women of childbearing age because female 'baby boomers' (babies born in the years following World War Two) were entering their fertile years.⁵³ Reliable and affordable contraception was generally unavailable until the mid-1970s and abortion was illegal, and either expensive but safe, or cheap and extremely dangerous. The rise in ex-nuptial pregnancies most likely reflected a combination of these factors, rather than a consequence of the growth of promiscuity.⁵⁴
- 3.3** The number of adoptions also rose steadily during the 1950s and 1960s, reaching a peak of 4,564 in 1972 when there was an excess of babies needing families and a shortage of suitable, approved parents.⁵⁵ From 1973 there was a sudden and consistent decline in the number of adoptions, sparking what is often referred to as the 'adoption crisis'. The reasons for this decline are complex and contentious and are discussed in greater detail in chapter 4.
- 3.4** While there was a steady increase in the number of adoptions during this period, the proportion of single mothers who kept their child also increased (this trend is discussed in chapter 4). Little is known about those single mothers who kept their child. In 1973, one academic noted that he was unable to find any follow-up studies of single mothers.⁵⁶ A former practitioner, Elspeth Browne recalled that during the period 1959-63, the proportion of ex-nuptial babies surrendered for adoption at the hospital in which she worked was approximately 60%. Most of the 40% of ex-nuptial babies that were kept by their mothers were born either to young mothers in stable de facto relationships or to very young mothers, in particular those residing in Child Welfare Department Institutions.⁵⁷
- 3.5** One of the most significant trends in adoption during the 1950s was the upsurge in the number of private adoptions. In 1947-48 there were 204 private adoptions - approximately 15% of the total number of adoptions. By 1959 the number had increased to 769, comprising almost 57% of the total.⁵⁸ This trend was of major concern to welfare authorities and adoption professionals in NSW.
- 3.6** The stigma attached to ex-nuptial pregnancy in the first half of the century, discussed in chapter 2, persisted throughout the 1950s and adoption was increasingly perceived as an acceptable solution with benefits for all of the parties.

⁵³ P. Roberts, 'The hospital's responsibility to the unmarried mother and her child', *Hospital Administration* Vol 16, No 12, December 1968, p.10

⁵⁴ Royal Hospital for Women, Melbourne, Annual Report, 1968

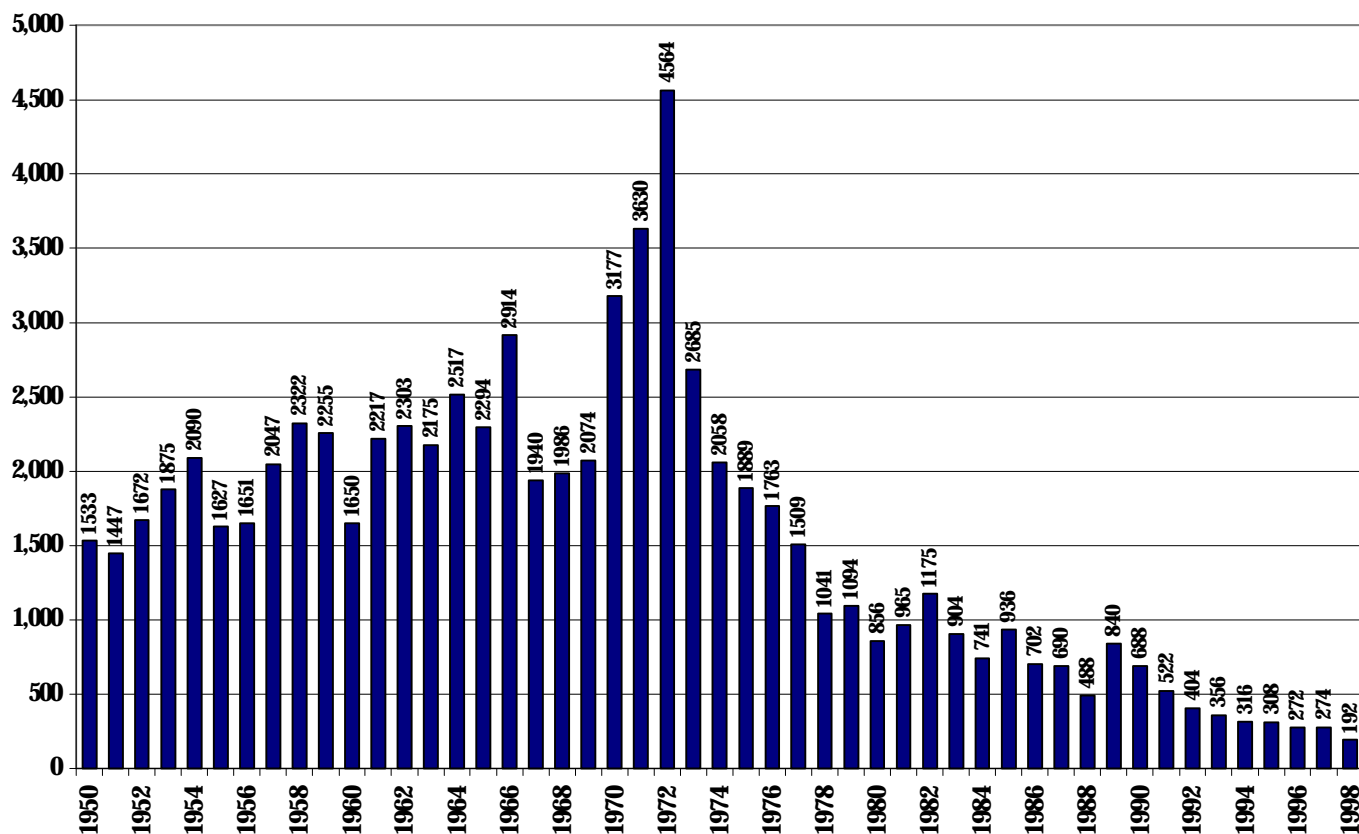
⁵⁵ McDonald & Marshall, op.cit., p.126

⁵⁶ Schlesinger B, 'Unmarried Mothers in Australia': A Review, *Australian Journal of Social Issues*, Vol 8 No 1 1973, p.68

⁵⁷ E. Browne, Adoption and Abortion: A Comment, *Australian Social Work*, March 1977, p.36

⁵⁸ Department of Child Welfare, Annual Report, 1959, p.22

Graph 1: Number of adoptions registered per calendar year



Source: NSW Registry of Births, Deaths and Marriages, October 2000

The focus of adoption practice

3.7 According to McDonald and Marshall, the forces of supply and demand have always played a major role in dictating adoption policy and practice. This was particularly evident in the 1950s and 1960s when there were large numbers of babies available for adoption and a shortage of adoptive parents.⁵⁹ These circumstances created a common perception that couples were 'entitled' to a child and that adoption was a service to infertile couples. Consequently, the interests of the child were very much identified with those of the adoptive parents and the underlying thrust of practice was on finding homes for healthy and 'appealing' babies from 'promising' backgrounds, rather than helping children in most need.⁶⁰ Policies to cater for the needs of the relinquishing mother were virtually non-existent.

3.8 The extent of formal policy on adoption before the 1980s was minimal. However, witnesses to the inquiry and the Committee's own archival research have identified some

⁵⁹ McDonald & Marshall, *op.cit.*, p.126

⁶⁰ M. McDonald, *Adoption – the long view forward*, paper presented to the 1994 Australian Adoption Conference, Sydney, August 1994

written policies prepared by government and private agencies during the 1950s and 1960s and these are referred to in the appropriate sections of the report. Adoption policy has also been extrapolated from assorted correspondence, guidelines, seminar notes, social work reports and the recollections of former adoption professionals. By the late 1970s there was a greater tendency to produce written, formal policies on adoption, as discussed in chapter 4.

- 3.9** The 1950s and 1960s were characterised by the increasing professionalisation of adoption practice. Social workers were key players in this new endeavour.

Adoption has become recognised as a process requiring scientific understanding and professional skill. Indeed, all modern adoption legislation presupposes the use of trained and efficient social workers.⁶¹

- 3.10** The following section looks at the key elements of adoption practice during this period, including the approval process for adoptive parents, ‘matching’ and deferred adoptions.

Private adoptions

- 3.11** One of the most significant features of adoption practice during this period was the increasing number of privately arranged adoptions. In private adoptions, the arrangements were made by the adopting parents, usually with assistance from an intermediary such as a doctor, minister of religion or a solicitor. Private adoptions were also arranged by charitable organisations. An adoption application would be prepared and presented in court by the solicitors engaged by the adoptive parents or private agency. The Department’s role in such adoptions was minimal.⁶²

- 3.12** The number of private adoptions increased dramatically in NSW during the 1950s and was a source of considerable anxiety for the Department. The concerns were twofold, the first of which was the potential for abuse, as noted by the Department in 1959.

Experience overseas has shown that private placing by a parent is a procedure open to dangerous abuse. Indeed, adoption laws in the United States of America were revised to guard against the unsavoury practice of trafficking in infants which arose because of the imbalance between the limited number of babies available for adoption and the much greater numbers of applicants.⁶³

- 3.13** The second area of concern was that the skills and resources required to ensure a successful adoption placement were felt to be lacking in private adoptions. The ‘matching’ of babies with adoptive parents was identified as an important and necessary skill.

⁶¹ Department of Child Welfare, Annual Report, 1955

⁶² Department of Child Welfare, Annual Report, 1957

⁶³ Department of Child Welfare, Annual Report, 1959, p.22

Approving and matching adoptive parents

- 3.14** The Director of the Department was responsible for approving applications by prospective adoptive parents in private and departmental adoptions. In departmental adoptions, District Officers made an assessment of the suitability of the adoptive parents on the basis of an inspection of their home and an interview in which they were asked about their family and personal background and their attitudes to infertility and adoption. They were required to support their application with references and undergo a medical examination. The husband was supposed to have a stable record of employment and the wife was expected to give up work once the child was allotted. The Department preferred applicants to be less than 45 years old.⁶⁴
- 3.15** In private adoptions, the Supreme Court referred applications prepared by solicitors representing the parents to the Department. The application would be assessed by a district officer based on an interview and an inspection of the home.⁶⁵
- 3.16** Until the dramatic decline in the number of adoptable babies in the early 1970s, the process for approving adoptive parents was, by current standards, very basic and approval was rarely withheld:
- ...something had to be seriously and obviously wrong for an application to be questioned let alone considered for rejection ... the great majority of parents would after all be approved.⁶⁶
- 3.17** Once the parents' application was approved, the process of matching would begin. Adoption professionals generally believed that placing babies with adoptive parents whose physical and intellectual characteristics were similar to those of the natural parents would maximise the chances of success. This practice was referred to as matching.
- While adopting parents must be prepared to accept that an adopted child may differ from them in many respects, it will be easier if basic similarities of appearance, ability and background exist, and with a young baby this can only be achieved by placing it with adopting parents as much like the natural parents as practicable.⁶⁷
- 3.18** Effective matching required a thorough and time-consuming assessment of the qualities of all three parties so that, as much as possible, the adopted child would seem to be the natural child of the adoptive parents. An example of matching is provided in a 1954 edition of *Progress*, the journal of the Public Service Board. It begins with a description of the departmental officer examining the file of the baby to be adopted.

⁶⁴ Department of Child Welfare, *Adoption in New South Wales, Information Booklet*, 1970

⁶⁵ Department of Child Welfare, *District Officers' Instructions*, Part IV – 6, p.2

⁶⁶ McDonald, *op.cit.*, p.13

⁶⁷ E. Thompson, 'The Role of the Private Adoption Agency', *Australian Journal of Social Issues*, Vol 6 No 1, p.59

The child's mother is a university graduate—a slim attractive girl with regular features, pale skin, curly brown hair and wide, grey-green eyes. She is an accomplished pianist, and has said that most of her family is musical. She described the child's father as being tall, of fine physique, with blue eyes, ruddy complexion and a shock of fair, straight hair. He would have been good looking, she said, except for his large nose. He was a keen footballer, had left school at 15, and was now a carpenter.

- 3.19** Assuming the baby would be 'above average in intelligence', the officer examines the files of adopting applicants who had reached the top of the waiting list and chooses the most suitable applicants.

She takes the pile of the same religion as the baby, and goes through it. Here is a couple who by their physical description closely resembles the baby's natural parents. But they are of limited intelligence and their income would not run to a university education for the child...Finally, the officer finds the file she seeks – a school teacher and his wife who answer exactly to the physical description of the baby's own parents. Moreover, the adopting father is passionately fond of music, and conducts the school orchestra.⁶⁸

- 3.20** The Department made every endeavour to satisfy applicants' requirements.

Children are matched as closely as possible with their new parents but sometimes all the requirements of the adopting parents cannot be met, especially as regards hair and eye colour. Couples are not obliged to take the first child offered to them and refusal does not alter their priority on the waiting list of adopting parents.⁶⁹

Deferred adoptions⁷⁰ and 'unadoptable' babies

- 3.21** Up until the mid-1970s, it was the policy of both the Department and private adoption agencies to defer the adoption of a baby with a physical disability or whose natural parents had a problematic social or medical history.⁷¹ Babies born of an incestuous relationship were routinely deferred, regardless of the child's developmental state,⁷² as were babies with mixed or unknown racial heritage. Given the large supply of babies available for adoption in the 1950s and 1960s, it was presumed and was usually the case that adoptive parents would only accept a 'normal', healthy child:

⁶⁸ *Progress*, NSW Public Service Board Journal, Vol 3, No 2, February 1964, p.17

⁶⁹ Department of Child Welfare, *Adoption in New South Wales*, information booklet, 1970

⁷⁰ The term 'deferred' adoption was used after the introduction of the Adoption of Children Act. Prior to this, they were referred to as delayed adoptions. In this chapter, the terms are used interchangeably.

⁷¹ A. Marshall, *Review of Adoption Policy and Practice in NSW*, Department of Youth and Community Services, December 1984

⁷² F. Grunseit, 'The adoption of infants and the role of an adoption advisory clinic in New South Wales', *The Medical Journal of Australia*, April 28, 1973, p.851

...before the 1970s, most adoptive parents hoped for placement of a healthy child and knew if they waited another few months, another offer would be made to them.⁷³

3.22 In 1968, the Director General noted that the 'boom' in the number of adoptable babies meant it was increasingly difficult to place babies with slight physical defects, such as cleft palates.⁷⁴

3.23 The decision to defer or proceed with an adoption was based on a thorough medical examination of the baby, usually conducted within 10 days of birth, and an assessment of the social background and health status of the natural parents.⁷⁵ In 1965-66 adoption was deferred for between one in four and one in five babies. By the early 1970s there appears to have been a greater preparedness to accept babies whose adoption would have previously been deferred and only one baby in twenty was placed on a deferred adoption basis.⁷⁶

3.24 Until the introduction of the Adoption of Children Act in 1967 the natural parent(s) of a child intended for adoption retained guardianship of the baby until the adoption order was made. If adoption was deferred, the mother or her family were usually expected to care for the child themselves, or contribute to its care, until cleared for adoption.

Three girls confined here recently had babies with a foot deformity, which prevented the child from being adopted. The girls all wished to return to work and were very worried when first told they must support and look after the babies for some months until they were fit for adoption.⁷⁷

3.25 In 1953, a study group of the AASW wrote about the limited options available to mothers whose babies had some form of disability.

Where adoption is not feasible, either because the child has some congenital defect of greater or lesser degree, or where the social history is so poor, that too much risk is involved in placing the Child (sic) outright, other plans must be made. If the physical ill (sic) is a mild one the baby may go to a foster home or Institution until ready for adoption. The mother is regarded as being responsible for the child until the actual adoption placement is made.⁷⁸

3.26 If the mother or her family were unable or unwilling to care for the baby, the baby could be admitted to State control as a ward, thus transferring guardianship to the Department. The child would be accommodated in an institution run by the Department of Child Welfare, the Health Commission or a private agency. A limited amount of foster care was

⁷³ Department of Community Services, Correspondence, 29 May 2000

⁷⁴ *Daily Telegraph*, 15 March 1968

⁷⁵ Grunseit, op.cit., p.851

⁷⁶ Department of Community Services, Annual Report, 1971

⁷⁷ Unidentified metropolitan hospital, Almoners Report, c.1942

⁷⁸ Study Group for the Welfare of Mothers and Babies, op.cit., p.6

available for such babies. In such cases, the Department would usually seek a contribution for the child's care from the mother or her family and commence maintenance action against the putative father.

3.27 It is interesting to note that, despite facing a critical accommodation shortage in the late 1960s, the Royal Hospital for Women in Melbourne did not expect women to look after their babies if adoption was deferred.

Forcing girls temporarily to hold medically deferred babies is a course which holds such dangers that - humanitarian reasons aside - it would be against the community's interests to permit this to occur.⁷⁹

3.28 Many babies whose adoption was deferred were eventually adopted. In some instances, the suspected disability was not as severe as first thought or the child flourished under the care of foster parents.⁸⁰ In a small number of cases, adoptive parents were willing to accept a child with a disability. However, many babies were never cleared for adoption and remained in foster or institutional care for many years. Institutional accommodation was in short supply and in any case, was not viewed by the Department as an appropriate environment to raise a child.

3.29 It would appear that the mothers of 'unadoptable' babies were often expected, if not encouraged or even pressured, to keep their babies, rather than arrange for them to be admitted to wardship. Judith Roscoe, whose baby was born in 1961, recalled an incident at St Anthony's.

I remember when one of the girls there had a baby with a hole in the heart she was encouraged to keep her child as nobody would want a baby with a medical condition. She took her baby home with her. All the girls envied her and almost wished that their child would have something wrong too so that they would be allowed to keep their child.⁸¹

3.30 According to the Study Group for the Welfare of Mothers and Babies, mothers had little choice in whether or not they kept their child, if deemed unsuitable for adoption:

... if the physical condition is more serious, or the baby rejected on the grounds of unsuitable family background, it is possible to make application for the child to be admitted to the care of the State. Where the baby is not accepted as a State Ward, the Mother has often very little alternative but to keep the baby herself, even if she does not wish to do so. This group of patients is small but probably comprises those in need of the greatest protection and in reality they get the least help...⁸²

⁷⁹ Royal Hospital for Women, Melbourne, Annual Report, 1968

⁸⁰ Department of Child Welfare, Annual Report, 1957, p.10

⁸¹ Roscoe evidence, 27 July 1999, p.51

⁸² Study Group for the Welfare of Mothers and Babies, op.cit., p6. Former departmental adoption workers said it would have been 'extraordinarily unlikely' for a child not to be accepted as a State Ward. The statement may reflect the extent of pressure on a woman to keep a baby not judged as being fit for adoption.

- 3.31** The lack of appropriate departmental or private accommodation for 'unadoptable' babies and the Department's negative perception of institutional life may explain why some women were encouraged or felt under pressure to keep their babies. It is also likely that in some instances, women chose freely to keep their babies, knowing that their child would otherwise be destined to spend many years in an institution.

Single mothers in departmental institutions

- 3.32** Adoption was rarely an option for one group of single mothers: the residents of departmental institutions, such as Myee and the Parramatta Girls Training School, most of whom had been before the Children's Court on charges of neglect or uncontrollability.

The department's one establishment for babies is Myee Hostel - a combined lying in home for expectant and nursing mothers and home for babies...Because a significant number of babies admitted to Myee Hostel are not placeable due to physical defects or mental retardation...⁸³

- 3.33** It would appear that many of these babies were considered unadoptable, even before they were born.⁸⁴ Residents received mothercraft training and individual and group counselling throughout their pregnancy to help them 'accept their situation, to be willing to cooperate in making plans for their future and later to carry them out'.⁸⁵ They were assisted to keep their babies despite the fact that most of them expressed feelings of rejection towards their babies and were seen as ill-equipped to deal with the many problems associated with motherhood.⁸⁶ While some babies were eventually adopted:

many girls retain their children as a result of the encouragement and assistance they receive.⁸⁷

- 3.34** While the policy of rejecting certain babies for adoption was generally accepted at the time, some adoption professionals questioned whether such a practice was in the best interests of the child.

I am sure that most medical practitioners and certainly most paediatricians, and probably most social workers, would quickly agree that the child with a handicap is more deserving and needing of adoption than the child who is completely normal.⁸⁸

⁸³ Department of Child Welfare, Annual Report, 1965

⁸⁴ Department of Child Welfare, Annual Report, 1954

⁸⁵ Department of Child Welfare, Annual Report, 1967

⁸⁶ Department of Child Welfare, Annual Report, 1955

⁸⁷ D. McLean, *Children in Need*, Department of Child Welfare, Sydney, 1956, p.153

⁸⁸ W. G. Grigor, *The Child*, paper presented to a seminar on adoption services in NSW, Department of Child Welfare, Proceedings of a Seminar, 3 February 1967

Committee view

- 3.35** Adoption in the 1950s and 1960s was primarily focussed on finding appropriate homes for 'healthy', white, newborn babies. Despite moves in the late 1960s towards ensuring the needs of children were paramount, the underlying thrust of adoption practice during this period was primarily about 'finding children for parents, rather than parents for children'.⁸⁹
- 3.36** This era was also characterised by a continuing disdain for relinquishing mothers, illustrated by some of the double standards employed in the treatment of the mothers of so-called 'adoptable' and 'unadoptable' babies. For instance, as outlined in Part Two of the report, the mother of an 'adoptable' baby was often reminded of the difficulties involved in keeping her baby and told that her child would be best cared for in a two-parent family. Conversely, the mother of an 'unadoptable' baby was expected or encouraged to keep her child even though she might be considered ill-equipped for motherhood and her baby would probably require a greater level of care. The mother of an adoptable baby was discouraged or prohibited from seeing her baby in order to prevent maternal bonding but if for any reason the adoption was deferred, she was asked to care for her baby until it became adoptable.
- 3.37** It was not until the downturn in the number of babies available for adoption in the mid 1970s that these practices changed. With far fewer babies available for adoption, the approval process for adoptive parents was tightened and more parents were willing to consider adopting a child with a disability (see chapter 4). By the late 1970s, the deferment or rejection of babies with a 'problematic' social background or some form of disability was viewed as contrary to the best interests of the child. It was also at this time that relinquishing mothers began to speak out about the impact of such practices on themselves and their families.

The influence of *Mace v Murray* on adoption practice

- 3.38** Adoption practice in the late 1950s, and in particular the procedures for taking consent, were strongly influenced by an adoption matter contested in the NSW Supreme Court in 1953 and 1954, and appealed to the High Court in 1955. Joan Murray was a single woman who delivered her baby at Women's Hospital Crown Street in November 1952. Before her confinement, she told the hospital authorities that she intended to relinquish the baby. A few days after the birth, she was approached by an officer of the Child Welfare Department to sign a consent. However, on this occasion she told the officer that she was undecided and did not wish to sign the necessary documents. The officer returned a few days later and Miss Murray signed the consent.
- 3.39** The prospective adoptive parents, Mr and Mrs Mace, were told that they could take the baby immediately, but would have to return it if the mother wished to reclaim the child before the adoption order was made. While they signed an undertaking to this effect, they were also advised that revocations were extremely rare. Nevertheless, Joan Murray withdrew her consent in time and the adoptive parents were requested to return the baby. The Maces refused to return the child and applied to the Supreme Court for an order of

⁸⁹ McDonald, op.cit., p.14

adoption. Despite opposition from Miss Murray, the order of adoption was granted in June 1953.

- 3.40** The judgment was overturned on appeal to the Full Court of the Supreme Court, but the original judgment was reinstated on appeal to the High Court by the Maces. Throughout the protracted court battles, which were funded by two rival tabloid newspapers, the baby never left the custody of the adoptive parents.

The Adoption of Children Act 1965

- 3.41** The increasing acceptance of adoption during the 1950s was accompanied by a recognition by welfare authorities of the need to implement uniform adoption legislation across Australia so that an adoption order made in one State or Territory would be recognised in every other State. It was also seen as a good opportunity to address adoption practices of concern, particularly the increase in the number of private adoptions and the need for a set revocation period demonstrated by the *Mace v Murray* litigation. During 1963-64, State and Federal Attorneys-General drafted a model bill on adoption, which was enacted in the ACT in 1965. By the end of the 1960s similar, although not uniform, adoption legislation had been introduced throughout Australia⁹⁰. Common to all of the new Acts was the principle that in any adoption, the interests of the child should be paramount. The contribution of NSW to nationally consistent adoption legislation was the *Adoption of Children Act 1965* which was heralded as a forward-looking and progressive piece of social legislation.⁹¹ The key provisions of the Act are summarised below.

Private adoptions prohibited and private agencies established

- 3.42** The Adoption of Children Act prohibited private adoptions unless the child was related to the adoptive parents. As noted above, this was seen as a necessary measure to guard against the potential for abusive or unprofessional practices in privately arranged adoptions. From this time on non-familial adoptions could only be arranged by the Department or a private agency approved to operate as an adoption agency.

- 3.43** The charitable agencies already involved in adoption work were key players in the development of the Act and thereafter were accorded a central place in adoptions.

In this State several of the churches in particular have developed organizations through which adoptions can be arranged. The bill recognizes the valuable work that such organizations are in fact doing and makes provision for the approval of private adoption agencies.⁹²

- 3.44** By the time the Act came into operation in 1967 six private agencies had been registered. These were the Catholic Adoption Agency; Church of England Adoption Agency;

⁹⁰ Marshall, op.cit., p.38

⁹¹ The Hon E. Furley, NSWPD, Legislative Council, 8 December 1965

⁹² The Hon A.D Bridges, NSWPD, Legislative Council, 8 December 1965

Methodist Adoption Agency; Presbyterian Adoption Agency; Salvation Army Adoption Agency and the Sydney Rescue Work Adoption Agency. The Benevolent Society Adoption Agency was registered in 1969.⁹³

Secrecy designed to ensure a clean break

- 3.45** The *Child Welfare Act 1939* did not prohibit the parties to an adoption from discovering each other's identity. In many cases, the adoptive parents would know the identity of the birthparents because their names were included on the adoption order. In private adoptions, the parties would often be known to each other already.⁹⁴ However, the opportunities for members of the 'adoption triangle' to know each other's identity were severely curtailed by the Adoption of Children Act.
- 3.46** One of the principal aims of the Act was to make sure that adoption arrangements were kept secret and there would be no contact between the parties. When an adoption order was made, an amended birth certificate was issued by the Registry of Births, Deaths and Marriages, showing the adopted person to be the child of the adopters. The adopted child, even as an adult, had no right to access the original birth certificate, except on the order of a court. Similarly, birthparents had no right to obtain a copy of the amended birth certificate.⁹⁵ As noted earlier, the rationale for this provision was to ensure a clean break between the birth parent(s) and the child.

Since under the new Act the child is to become the child of the adoptive parents as though born to them in lawful wedlock, the complete confidentiality of the proceedings should be safeguarded and the identity of parties to an adoption should not be revealed.⁹⁶

Set revocation period

- 3.47** Before 1967 a mother could withdraw her consent at any time before an adoption order was made. The new Act introduced a set period of 30 days in which consent could be revoked. Revocation rights are discussed in detail in chapter 8.

⁹³ Thompson, op.cit., p.60

⁹⁴ Law Reform Commission of NSW, *Review of the Adoption Information Act 1990* (NSW) NSW LRC, Sydney, July 1992, p.11

⁹⁵ *ibid*, p.12

⁹⁶ B. A. Langshaw, 'Implementing the Adoption of Children Act', *Social Service*, Vol.18 No 3 November/December 1966, p.11

Non-adoption alternatives

3.48 The consensus among former adoption workers who provided evidence or submissions to the Committee was that until the introduction of the Supporting Mother's Benefit in 1973, a woman without the support of her family or the father of her child would have had little option but to relinquish her baby. This view is also expressed by academics Anne Summers and Shurlee Swain, who suggest that the level of income support provided by either State or Commonwealth governments made it virtually impossible for a woman to keep her child.⁹⁷ This section looks at the extent and nature of non-adoption alternatives before the introduction of the Supporting Mothers Benefit in 1973.

Commonwealth income support

3.49 From 1947 single mothers could receive certain Commonwealth benefits, during a short period before and after the birth.⁹⁸ Special Benefit could be paid for a period of twelve weeks before the birth of a child and six weeks after. The rate for an unmarried person in 1968 was between \$3.50 and \$4.75 per week.⁹⁹ Maternity Allowance was a lump sum payment to assist with the costs associated with the birth of a child. In 1968 the allowance was \$30. Child Endowment was also paid for dependent children of married and single mothers. In 1968 this was \$0.50 per week for the first child.

3.50 Single mothers were ineligible for the Commonwealth Widows Pension for the first six months after the birth of their baby. During this period a mother could apply for assistance from State social welfare departments (see below).

3.51 In 1973 the Whitlam Government introduced the Supporting Mothers' Benefit which brought all single, deserted and widowed mothers into one administrative category and paid them a uniform allowance, which in 1973 was \$26.00 per week. The impact of this allowance is discussed in chapter 4.

Assistance provided by the State Government

3.52 As noted above, the State provided social welfare services to people who did not qualify for or were waiting to qualify for a Commonwealth pension or benefit. In NSW these services were originally provided by the Department of Labour and Industry but responsibility was transferred to the Department of Child Welfare and Social Welfare in 1956.

⁹⁷ Summers, op.cit., p.448

⁹⁸ Swain, op.cit., p.200

⁹⁹ Year Book of Australia, 1968, Commonwealth Bureau of Census and Statistics, Canberra, 1968 p.473

- 3.53** The main type of assistance provided by the Department was in the form of 'cash assistance' and 'food relief.' The maximum rate in 1968 for a woman over 21 years of age with one dependent child was \$9.00 food relief and \$16.00 cash sustenance, per fortnight. She might also qualify for 'mothers allowance' of \$12 per fortnight. A single mother might also qualify for Section 27 allowance, which was cash assistance originally provided for under section 27 of the *Child Welfare Act 1923*.¹⁰⁰ The rate of section 27 allowance varied in accordance with the claimant's means and in 1968 ranged from \$0.50 to \$2.00 per week for each eligible child.¹⁰¹ Therefore, the maximum assistance provided by the Department to a single mother over 21 years of age in 1968 was between \$19.00 and \$20.50 per week. In practice, with a stringent means test and other conditions in force, a single mother was unlikely to receive the maximum.
- 3.54** According to a social worker writing in 1968, the Department's allowance did not provide a 'livable' income.
- Personal knowledge of some of these mothers trying to manage on this allowance has shown that they can only do so if they receive additional help from the voluntary relief-giving agencies such as the Smith Family. If they are trying to manage on their own the only alternative for them is to return to work once they have arranged day care for the child such as a day nursery or a daily minder. Alternatively, they may take a live-in job with the baby which occasionally works out well but which is often full of hazards.¹⁰²
- 3.55** To qualify for any of the State social welfare allowances, the mother was required to make an affiliation statement, which involved identifying the father of her child. The statement was used by the Department to pursue an action for maintenance either in court or by way of a voluntary agreement. The requirement to name the putative father was a significant disincentive for a woman who might otherwise qualify because she might not want to name him. If the woman was less than 16 years of age, the young woman might not want to expose the putative father to a prosecution for carnal knowledge.
- 3.56** According to a former senior departmental officer, Mr Barry Francis, many women found affiliation proceedings extremely humiliating because they had to provide extensive details of their sexual relationships to a district officer and then in court. If they qualified for this allowance, further embarrassment was likely as they were required to collect their cheques in person from local church or community halls, rather than receive a payment in the mail like many other recipients.¹⁰³

¹⁰⁰ Submission 260. This allowance evolved from the 1920s when children of poor families were removed into care. Subsequently a boarding out allowance was established so that children of poor families could be 'boarded out' with their families. The 1923 Act extended this right to single women on the assumption that the allowance was sufficient to keep the child, not the parent, alive.

¹⁰¹ Bureau of Census and Statistics, *Official Year Book of New South Wales*, No 60, 1969, Government Printer, 1969, p. 238

¹⁰² P. Roberts, Some of the needs of the unmarried mother who keeps her child, *Social Service*, July/August 1968, p.3

¹⁰³ Personal conversation, 17 November 2000

3.57 Furthermore, the recipients of the Section 27 allowance were subject to supervision by district officers, which some women may not have appreciated:

...as approximately 99 per cent of all recipients are women who are alone in bringing up their children for some reason, an authoritative male figure is available to help with any problem arising with the children. The latter is regarded as a regular part of field duties and of course another role of the district officer in relation to these allowances is a general supervision to make sure that the recipients eligibility is retained.¹⁰⁴

3.58 As noted earlier, after a period of six months on State benefits, single mothers were able to receive a Commonwealth Widows Pension. In 1968 the Widows Pension for a woman with one dependent child was approximately \$17.00 per week.¹⁰⁵

Temporary accommodation for the child

3.59 The Department offered two options for a woman who required temporary accommodation for her baby until she was in a position to resume custody. The child could be temporarily admitted to State control (wardship) in which case it would be placed in an institution. Alternatively, the child could be placed in a private home which was licensed by the Department.¹⁰⁶ The Committee has not received any evidence regarding the number or the circumstances of women who sought such assistance from the Department.

Housing and child care

3.60 The availability of public housing and appropriate child care was extremely limited in the 1950s and 1960s. In the late 1960s there were only six nurseries in NSW which catered for under two-year-olds and these were all in metropolitan Sydney. The Annual Reports of the Sydney Day Nursery Association in the mid to late 1960s document the Association's concerns about the lack of appropriately trained staff and the ever-increasing demand for nursery services.¹⁰⁷

3.61 The average wait for Housing Commission accommodation in NSW in 1969 was three to three and a half years.¹⁰⁸ Single parents were not given any special priority and there is no specific reference to single mothers in the Annual Reports of the Housing Department until the late 1960s.

¹⁰⁴ Department of Child Welfare, Annual Report, 1966

¹⁰⁵ *ibid*

¹⁰⁶ Department of Child Welfare, Annual Report, 1953

¹⁰⁷ Sydney Day Nursery Association, Annual Reports, 1966-68

¹⁰⁸ Submission 247

Assistance from non-government agencies

3.62 Some maternity homes and private adoption agencies provided temporary accommodation for single mothers with or without their children. This was mostly in the form of institutional care, as foster care only became widely available in the 1970s¹⁰⁹. For example, the Infants Home in Ashfield and Scarba House in Bondi offered temporary accommodation for babies of unmarried mothers until the mother was able to arrange alternative accommodation as well as employment and child care. Evidence to the Committee suggests that institutional accommodation was difficult to secure and not viewed favourably by professionals:

...temporary care was often not available and residential care units or institutions were reluctant to accept infants into care, believing it to be contrary to their developmental needs.¹¹⁰

Was income support for single mothers adequate before 1973?

3.63 One of the main concerns raised by mothers who participated in this inquiry is that they were not properly advised about the availability of income support and other alternatives if they chose to keep their babies. Even if information was provided, many say they were told the level was insufficient to support themselves and their child. A large number of mothers have indicated that the failure of adoption professionals to provide them with complete and accurate advice about alternatives to adoption was a critical factor in their decision to relinquish their child.

3.64 For this reason, the Committee felt it was necessary to consider whether the level of income support available during this period was sufficient to support a mother and child by reference to relevant indicators in the late 1960s.

3.65 The Committee has been advised that the poverty line for a single non-working parent with one child in the March quarter of 1968 would have been \$21.29 per week and the average weekly wage for a woman in 1968 was \$35 per week.¹¹¹ As explained in paragraph 3.53, a single mother was unlikely to receive the maximum in State allowances (\$20.50) per week. Furthermore, housing and child care were extremely limited during this period. Without family or other support a mother would have had to live with her child on an income below the poverty line and probably less than half the average wage of women at the time. For the first six months of motherhood she was dependent on State assistance which

¹⁰⁹ *ibid*

¹¹⁰ Submission 250

¹¹¹ Poverty lines are benchmarks of disposable income needed to provide for the basic needs of a particular family unit. Poverty lines are relative. In other words, as incomes in the community rise, so will the poverty line. The poverty line for Australian families was first calculated by Professor Ronald Henderson in 1973. The figure quoted above for 1968 was calculated by Professor David Johnson of the Melbourne Institute of Applied Economic and Social Research, University of Melbourne. A description of his calculation is provided at Appendix 7.

required her to reveal and publicly document intimate details of her sexual life and to queue at a church hall to collect her allowance.

- 3.66** The Committee accepts that without any other form of support, it would have been extremely difficult for a single mother to support herself and her child before the introduction of the Supporting Mothers' Benefit in 1973. This is not to say that women should not have been advised of the assistance or services available, no matter how meagre, if they wished to keep their child. This issue is addressed in chapter 8.

Conclusion

- 3.67** Adoption in the 1950s and 1960s was generally perceived to be the ideal solution to the problem of ex-nuptial pregnancy. It provided the 'healthy' white child with a two-parent family and legitimacy, the birth mother with an opportunity to 'get on with her life' and infertile couples with a child to care for and cherish. Alternatives to adoption for a woman without the support of her family or the father of her child were very limited and would not have provided adequate support for a woman and a dependent child.

- 3.68** The period was characterised by the increasing professionalisation of adoption practice and the move to eliminate practices causing concern, particularly those relating to private adoptions. Adoption professionals welcomed the progressive reforms introduced by the Adoption of Children Act in 1967 and the principle that the child's interest should be paramount. Even after the introduction of the Act, certain practices persisted which did not further the best interests of the child or of some mothers, such as the practice of deferring or rejecting the adoption of babies with a disability. The so-called adoption crisis was a major impetus to further changes to adoption policy and practice in the 1970s, as will be discussed in chapter 4.

Chapter 4 Adoption - mid 1970s to 1998

During the 1970s there was a growing acceptance of the unmarried mother and a considerable number of formal and informal support mechanisms were developed to assist her to keep her baby. This chapter looks at the diminishing number of babies available for adoption after 1972 and some of the reasons for this so-called 'adoption crisis', such as changes in attitude to single mothers, availability of financial assistance and access to contraception. The chapter considers the changes in adoption legislation, policy and practice for the period from the mid 1970s to 1998.

Adoption trends

4.1 By the early 1970s the proportion of unmarried mothers keeping their babies had begun to increase. As explained in the previous chapter, adoption in NSW peaked in 1972. The total number of adoptions in NSW in 1968 was 1,986 and by 1971 the number had risen to 3,630. By 1975 there was a rapid reduction of the number of "healthy white babies" available for adoption with only 1,889 adoptions and by 1984 there were only 741 adoptions. In the year 1999 there were a total of 178 adoptions in NSW. A complete table of the number of adoptions in NSW is included in Appendix 5.

4.2 An interesting trend in adoptions in the early 1970s was the change in the proportion of ex-nuptial and nuptial women relinquishing a child to adoption. Single women were beginning to reject adoption as the primary option. According to an analysis by John Kraus in 1976 the proportion of the total number of babies adopted in 1968 (1,659 adoptions) was ex-nuptial births 95.4% and nuptial births 4.5%.¹¹² By 1971, the proportion of single mothers who kept their baby was significantly more and a higher proportion of married women chose adoption. The total number adopted in 1971 was 3,275, with 85.9% ex-nuptial births and 14.0% nuptial births. By 1975 the total number of adoptions had dropped to 1,799 adoptions but the proportions remained much the same with ex-nuptial births 85.3% of the total and nuptial births 14.7%.

4.3 The increasing tendency for single women to keep their babies from the late 1960s was noted by adoption professionals.

During the past few years it has become quite usual for unmarried mothers to keep their babies ... The recent enthusiasm in encouraging single women to keep their babies should give rise to a great deal of thought and the outcome of these decisions should be thoroughly investigated.¹¹³

4.4 While the number of adoptions decreased radically after 1975, there was an increase in the proportion of births amongst unmarried teenagers. In 1971, out of every 1000 girls aged

¹¹² The figures for adoption differ slightly from those provided by the Registry of Births, Deaths & Marriages. For an explanation of the reason for the differences, see J. Kraus, 'Historical Context of the Adoption "Crisis" in New South Wales', *Australian Social Work*, Vol 29, No 4, December 1976.

¹¹³ F. Grunseit, op.cit., p.851-857. See also P. Roberts, 'The hospital's responsibility to the unmarried mother and her child', *Hospital Administration*, Vol. 16 No 12, December 1968, p.10

15 to 19 years, 22 would have married because of pregnancy. By 1985 this had declined to 3 in every 1000.

Because more young women are rearing their babies as single mothers, teenage pregnancy is more readily identified.¹¹⁴

- 4.5** As noted above, from 1971-75 a relatively high number and proportion of babies for adoption were relinquished by married women. Some commentators argued that the difficulties of accessing divorce and abortion during this period contributed to this rise.¹¹⁵ However, Elspeth Browne, writing in 1977, argued that these impediments existed prior to the 1970s and that various other social factors most likely contributed to this trend, including the decline in fertility control services, the escalating cost of child rearing and the reduction in employment opportunities for women during the economic recession of the late 1970s.¹¹⁶

The 'adoption crisis'

- 4.6** There was considerable debate in the 1970s about the reasons for the so-called adoption crisis. While some commentators believed the crisis was a direct result of changing attitudes and access to abortion, others suggested it was due to a range of complex and interrelated factors including the changes in attitudes to single parents, and better access to abortion, contraception, financial benefits and child care support.
- 4.7** The adoption crisis had a major impact on the 'adoption industry'. By 1984 a review of adoption policy and practice stated that:

The existing Adoption Services are all...in a state of crisis. They are caught in a situation where, as a result of rapid social changes...there are very few new-born healthy babies available for adoption. Yet many people, mostly those couples with fertility problems, still have an expectation that they can adopt a baby. Many of these people have already been applicants for a number of years and the system has reinforced their expectation. The reality is that only a fraction of people will, in fact, have their expectations met. The community generally is still unaware of the crisis, and assumes that an unsuccessful application is to be the exception and not the rule'...Concerted and immediate action is required to educate the community generally, and the prospective adopters in particular, that adoption as it has been understood, is virtually finished.¹¹⁸

¹¹⁴ S. Siedlecky & D. Wyndham, op.cit., 1990. See below for more information on access to contraceptives and family planning services for teenagers.

¹¹⁵ J. Kraus, op.cit., p.24

¹¹⁶ Browne, op.cit., 1977, p.38

¹¹⁷ ibid, p.38

¹¹⁸ A. Marshall., *Adoption policy and practice in New South Wales, Review of New South Wales*, Department of Youth and Community Services, December 1984, p.3

- 4.8** The trend towards alternative solutions was to have a profound impact on adoption practice including, as outlined in the sections below, the change from adopting locally-born, healthy babies to adopting overseas and children with special needs. In addition to this, there was an increased focus on the needs and rights of birth parents and the importance of access to adoption information.

Attitudes to single mothers

- 4.9** The marked reduction in adoptions in the early 1970s coincided with an increasing acceptance of single mothers as well as improvements in financial and social assistance and options for preventing the pregnancy. This section discusses the major shifts in attitudes and alternatives to adoption.

The mobilisation of single mothers

- 4.10** As early as the turn of last century feminists and the suffragists were challenging traditional notions of 'family' and insisting that marriage and family should not be necessary for the recognition of individual worth. They argued very strongly for the rights of women to support themselves. By the early 1970s and the 'second wave' of feminism in Australia many of these early ideals were beginning to have a major impact on the lives of women. In particular, single mothers were beginning to speak out about their rights.

Radical changes in attitude to sexuality, the family and the status of women enabled single mothers to move from a position of negotiation within the system to one of greater social and economic independence.¹¹⁹

- 4.11** The development of self-help groups in the late 1960s and early 1970s such as CHUMS (Care and Help for Unmarried Mothers) in NSW and the Council for the Single Mother and Her Child in Victoria provided an important voice for many women. These self-help groups developed alongside increasingly vocal feminist lobby groups such as the Women's Electoral Lobby which had as its priorities government support for child-care and equal opportunity legislation.¹²⁰ Wendy McCarthy explained the strong connection between the Women's Electoral Lobby and CHUM.

One of the most powerful first members of the Women's Electoral Lobby was a young woman called Sue Thompson who at that stage was the Chairperson of CHUMS...I think the importance of that group, the fact that they were brave enough to set up their own group and draw attention to themselves, should never ever be underrated.¹²¹

- 4.12** The activities of these groups and the fact that an increasing number of single women were rejecting adoption contributed to a growing acceptance of single motherhood. However as

¹¹⁹ Swain & Howe, *ibid*, p.196

¹²⁰ *ibid*

¹²¹ McCarthy evidence, 25 October 1999

Swain and Howe pointed out, the stigma of single motherhood was remarkably persistent and many women continued to experience discrimination.¹²²

- 4.13** By the 1980s studies conducted on and written by relinquishing mothers were emerging and influencing adoption practice, and contributed to the downward trend in the number of children placed for adoption. Several of these books addressed the issue of the impact of adoption on the relinquishing mother. The study by the Institute of Family Studies, *Relinquishing Mothers in Adoption* and books such as Kate Inglis' *Living Mistakes* told stories of the long-term grief experienced by some women. The importance of these works was that:

The assumption that a women (sic) could put the experience behind her and get on with her life as if nothing had happened was destroyed once and for all.¹²³

- 4.14** The feminist movement contributed significantly to women's health issues and developments in reproduction and fertility treatment and practices.¹²⁴ However feminism was not the only philosophy to have an impact on changes to adoption and other health-related practices. According to the NSW Branch of the Australian Association of Social Workers, the rise to prominence of the consumer rights movement brought about broader community understanding of health care issues.¹²⁵ These two movements had a specific impact on the participation of women in ensuring better health care for themselves and their children.

Supporting Mothers' Benefit, 1973

- 4.15** The introduction of the Supporting Mothers' Benefit (SPB) in 1973 brought all single, deserted and widowed mothers into one administrative category and paid them a uniform allowance six months after they became eligible for the benefit. The federal Whitlam Labor Government provided financial assistance to single-parent families and removed some restrictions such as the requirement to take maintenance action against the father. This meant that a single mother could obtain an income from the Federal government to allow her to support herself and her child. In 1977 the eligibility of the benefit was extended to include fathers, and became the SPB.¹²⁶

- 4.16** There are varying opinions on the impact of the SPB on providing the opportunity for single mothers to keep their babies. Some commentators argued that while the amount payable was still not enough to support most families, the introduction of the SPB signalled a change in attitude to single mothers. Anne Summers said of the SPB in 1975:

¹²² A number of women told this inquiry about discrimination they experienced as unmarried pregnant women in the 1970s and 1980s.

¹²³ M. McDonald, 'Adoption in the 1980s', *Current Affairs Bulletin*, September 1988, p.12

¹²⁴ McCarthy evidence, 25 October 1999

¹²⁵ Submission 252

¹²⁶ Commonwealth Year Book, 1988, op.cit., p.381

The amounts paid are still inadequate but the Government is at least not discriminating against single mothers: all fatherless families receive the same amounts.¹²⁷

- 4.17** The symbolic importance of the SPB in providing “some modicum of choice for the unmarried mother deciding whether to keep or surrender her child”¹²⁸ was increasingly recognised by other contemporary practitioners.

National adoption conferences

- 4.18** National adoption conferences played a significant role in shaping adoption policy and practice. The first national conference on adoption held in Sydney in 1976 was organised by social workers and brought together leading practitioners in the field. From this time on, there were regular conferences on adoption. At the earlier conferences, issues such as the development of overseas adoptions and the rights of adoptees were discussed, however there was very little discussion on the needs of single mothers. By the 1982 Adelaide conference ‘Changing Families’, interest and concern for single mothers had risen dramatically with a large percentage of papers by or about unmarried mothers. The conference saw the formation of the Association of Relinquishing Mothers (ARMS) and was marked by:

the ‘coming out’ of women who had placed children for adoption. At almost every session they strongly, often fiercely, put their views, expressing grief at the loss of their children and their anger at the social pressures which had forced them to place the children for adoption.¹²⁹

- 4.19** It is widely accepted that prior to the national conferences and the establishment of groups such as CHUMS and the Association of Relinquishing Mothers there was little acknowledgment of the long-term effects of adoption on birth mothers.¹³⁰ The public acknowledgment of the grief and loss experienced by mothers at these conferences contributed to the changing face of adoption.¹³¹

- 4.20** The most recent adoption conference, ‘Putting the Pieces Together’ was held in Hobart in May 2000 where a wide range of papers were presented on current issues such as overseas adoptions, indigenous child placements, reunions, and the long term impact of adoption on birth parents, adoptees and adoptive parents.

¹²⁷ Summers, op.cit., p.449

¹²⁸ E. Browne, ‘Adoption and Abortion: A Comment’, *Australian Social Work*, March 1977, p.38

¹²⁹ McDonald, op.cit., 1988, p.12

¹³⁰ Submission 260

¹³¹ For more information on the long-term effects of adoption, see chapter 9.

Access to abortion, the pill and family planning services

- 4.21** There was considerable progress from the 1960s in the development of contraceptive and reproductive technologies and in education on preventing pregnancy. While women used a range of contraceptive methods to prevent pregnancy prior to the 1960s, the impetus for reform in contraceptive technology coincided with and was facilitated by the second wave of feminism, and increasing acceptance of sexual relations outside marriage. The early 1960s was marked by the advent of the contraceptive pill and renewed calls for the reform of abortion laws. In 1962, the Humanist Society of NSW suggested that many women were forced into 'criminal transaction' because of the lack of acceptable alternatives to unplanned pregnancy. The humanists considered that contraception should be the 'first line of defence' where pregnancy was not wanted.¹³²
- 4.22** The introduction of the pill in 1961 was one of the most dramatic changes in the history of contraception and has contributed to new patterns of family formation, resulting in a rise in the age when women have their first child and reduction in the average size of families. According to Wendy McCarthy, a former CEO of Family Planning Association:
- The availability of the pill changed the whole nature of male/female relationships. ... It gave women a sense of independence and it gave them the means to be able to control their reproductive lives and I think it probably will go down as one of the most significant public health results this century.¹³³
- 4.23** While the pill was available to married women from 1961, there was early resistance to the provision of the pill to unmarried women. Prior to the 1970s unmarried women were dependent on informal information and the limited contraceptive advice doctors and pharmacists were prepared to give them. At the time of the introduction of the pill many doctors were reluctant to prescribe the pill for unmarried women unless it could be justified by medical reasons.
- 4.24** There was also a reluctance of many Family Planning Association (FPA) clinics to provide services to unmarried women. This reluctance prevailed well into the late 1960s in some clinics, and the 1966 Annual Report of the Association commented that while it was not their policy to 'moralise', the official attitude was to remain cautious and fearful of public reaction. Some clinics did provide services to unmarried mothers as staff located doctors with more 'liberal views'.
- 4.25** Prior to the late 1960s abortions were performed illegally by doctors, with many charging large fees and not conforming to safe standards of care. A national push to reform laws relating to abortion was driven by the Humanist Society and the establishment of Abortion Law Reform Associations (ALRA) in all the states of Australia. The activities of the ALRA resulted in considerable public attention to the abortion debate and resulted in changes in most states.

¹³² Siedlecky & Wyndham, op.cit., This section on alternatives relies largely on the information provided in this book.

¹³³ McCarthy evidence, 25 October 1999

- 4.26** In NSW, abortion prior to the 1972 Levine judgement was only legal when a woman's health was considered to be threatened. In a climate of considerable public attention to the abortion debate, charges relating to abortion were brought against several doctors in 1972. Dismissing the charges, Mr Justice Levine extended the definition of mental health to include the effects of economic or social stresses.¹³⁴ This considerably increased the availability of abortion.
- 4.27** By the early 1970s the FPA advertised that its services were "for everyone over the age of consent, married or unmarried, male or female".
- This was the first time that a public statement had been made that unmarried women, including women under 21, could attend FPA ...¹³⁵
- 4.28** Access to these services allowed women to better control their fertility. Further changes occurred in the early 1970s which improved access to advice on contraception. In 1972 the sales tax was removed from the contraceptive pill, and it was included on the pharmaceutical benefits list. In 1973 the Whitlam government lowered the legal age of maturity to 18 and in 1975 with the introduction of Medibank, all family planning services provided by doctors, including abortion, were covered. A system of health program grants from the Commonwealth government meant that FPAs no longer had to charge a fee.
- 4.29** While access to services became commonly available for unmarried women, access to services for minors continued to be restricted until the mid 1970s. By 1975 a number of drop-in centres were established, mainly in Melbourne, called ACTION centres. These centres provided independent advice and counselling to adolescents without the knowledge of their parents. While the centres were slow to be established in Sydney, by the mid 1980s family planning clinics aimed at providing education and contraceptive advice to adolescent girls were in operation in places with a higher proportion of teenage pregnancies such as Penrith in Western Sydney.

Teenage pregnancies

- 4.30** The importance of family planning education and services, and access to abortion and the contraceptive pill, cannot be underestimated, particularly for preventing teenage pregnancies. Between 1971 and 1985 the teenage birthrate in Australia fell by almost 60 per cent. Siedlecky and Wyndham argued that this was largely due to better contraceptive measures. Despite this, for those continuing with the pregnancy there was a trend towards young teenage girls opting to keep their babies rather than choosing adoption.
- 4.31** Until quite recently, schools provided limited education on sexuality and contraception. There had been very little sex education provided to young women at primary or high

¹³⁴ According to Siedlecky and Wyndham, despite the judgement, many doctors and hospitals were still hesitant about performing terminations and organisations such as the Australian Medical Association (AMA) remained sceptical about the judgement.

¹³⁵ Siedlecky & Wyndham, op.cit., p.126-129. As the authors note, some doctors, including several in the FPA remained sceptical about prescribing contraception and providing advice to unmarried women and to minors well into the 1970s.

school level in the 1950s and 1960s. There was no set curriculum on sex education although from 1968 some reproduction information was provided as part of the health syllabus. While the 1970s saw changes in attitude and improvements in the education options available to young women, the extent and nature of the information provided to students was determined by individual teachers and school principals. It was not until 1991 that sex education was a compulsory component of the secondary school curriculum. For government primary schools, a draft curriculum guiding education provision on personal development was provided to schools in 1992 and the final syllabus document was prepared in 1999.¹³⁶

4.32 Despite the changes in attitude in the 1970s, many young women still at school and pregnant experienced discrimination during this period. In evidence to the Committee Wendy McCarthy explained that during her time as a teacher at TAFE in the early 1970s she taught many pregnant girls:

who were thrown out of their school and were sent to TAFE, so at least they had some rehabilitation.¹³⁷

4.33 The NSW Department of Education issued its first written policy document in 1968 on the practices of government schools in providing educational facilities for schoolgirls who were pregnant.¹³⁸ According to the document, the time when a girl leaves school “is a matter for discretion” and her education could be continued through the Correspondence School. The Department recommended that the school counsellor provide advice and assistance and that “the girl may return to normal schooling when her medical advisers approve”. Despite this, correspondence to a Member of Parliament in 1973 suggested that discrimination against pregnant schoolgirls continued to hinder their education.

It has recently come to my notice that girls are still subject to expulsion from school in this State should they become pregnant. I find it quite horrifying that in this supposedly enlightened age there remains such discrimination against unmarried mothers, particularly at an age when they are unable to defend themselves and when education is so vital to their future lives.¹³⁹

4.34 The Department continued to issue memoranda in the 1970s and 1980s to principals restating the policy of the Department to ensure that education was provided to young pregnant schoolgirls.¹⁴⁰ However, in practice pregnant schoolgirls continued to experience varying levels of discrimination.

4.35 The Committee understands that the attitudes to pregnant schoolgirls are different today, and in most cases, the young woman is encouraged to continue her education during the

¹³⁶ Personal communication, Department of Education, 12 September 2000

¹³⁷ McCarthy evidence, 25 October 1999

¹³⁸ J. Buggie, *Departmental circular*, Department of Education, 9 December 1968

¹³⁹ Correspondence to Mr David Leitch, Member for Armidale, 15 May 1973

¹⁴⁰ NSW Department of Education, *Memorandum to Principals*, 1977; NSW Department of Education, *School Manual, Education Management, The education needs of pregnant school girls*, 1987

pregnancy and return to school after the birth of the baby. In a 1997 memorandum to secondary schools, the Department reminded staff of the importance of developing proactive strategies to help young pregnant students to “continue their education without discrimination”. The Department made available to schools a package of material “Young Mothers in Education” including a video, activities and information on issues dealing with teenage pregnancy and discrimination.

Changes to adoption legislation and policy

4.36 There were a number of major changes to adoption policy and practices after the 1970s despite the fact that only nominal amendments have been made to the *Adoption of Children Act 1965* since its introduction in 1967.¹⁴¹ The *Adoption Information Act 1990* introduced rights to adoption information. The dramatic reduction in the number of healthy, Australian born babies available for adoption changed the role of the key providers in the provision of adoption-related services. The two major government departments responsible for adoption, the Department of Youth and Community Services and the Department of Health, produced major new policy documents on adoption in the late 1970s. Other key service providers such as the adoption agencies also developed formal policies on adoption at this time. This section looks at this development as well as other changes in policy including a move away from secrecy to a more open adoption process, access to adoption information, inter-country adoption, and open adoption arrangements.

Policy development in the Department of Community Services

4.37 From the late 1970s the Department produced several comprehensive manuals dealing with adoption. The current manual used by the Department to guide adoption practice is *Practice Manual: Working with Children and Families, 1997*. This Manual provides extensive instruction and information on pre and post adoption responsibilities for departmental staff, including counselling to a parent considering adoption consent, adoptive parent assessment and selection, and assistance with reunions.

4.38 There have been a number of significant reviews within the Department on adoption policy beginning in 1984 with the Marshall report. This study was commissioned by the then Minister in response to the need to review policy in light of the adoption crisis. The report reviewed all adoption services in NSW and provided recommendations on future needs and directions. The review showed that, while the Department continued to handle its own caseload of adoption applications and to license private agencies, practices were directed towards allowing a greater degree of openness between the parties to an adoption and in facilitating 'special needs' and inter-country adoptions. See the sections below for more details on these issues.

¹⁴¹ The *Adoption Act 2000* was introduced into the Parliament by Minister for Community Services, Hon Faye Lo Po' in June 2000.

Hospital policy and the role of government

4.39 Many of the concerns outlined in Part Two of this report relate to the treatment and practices in NSW hospitals. The lack of clear policy on the treatment of women contemplating adoption prior to the 1980s led to considerable variation in practice. As noted by the Standing Committee on Adoption:

It seemed clear that both patients and staff suffered from the lack of a formulated and accepted policy – the staff member acting in good faith on his own view of how the welfare of mother and baby could best be served, but this view being often strongly at variance with the mother’s wishes and needs.¹⁴²

4.40 As a result of these concerns the Health Commission issued in 1979 a draft policy statement on ‘The rights of parents planning to surrender a child for adoption and hospital practices in regard to such parents’. However, it was not until 1982 that the Health Commission issued a formal policy to address concerns about hospital practices, that clearly articulated the legal rights of the biological mother.¹⁴³ The practices of concern included undue pressure being placed on unmarried mothers to surrender their child for adoption, unwillingness of hospital personnel to allow mothers considering adoption access to their child, and inadequate attention to privacy and confidentiality for these women and their babies. These practices and the response of the Health Commission are discussed in chapter 7.

4.41 Further policy changes occurred in the late 1980s when the NSW Health Department undertook a comprehensive review of maternity services in NSW. A final report was produced with recommendations for improved maternal and infant contact during their stay in hospital. Although the review did not deal specifically with mothers considering adoption, the changes in practices included all new mothers.

4.42 Current maternity practice for women considering adoption is guided by a number of principles including:

- A woman considering adoption has exactly the same rights as any other woman giving birth.
- The mother retains guardianship of the baby until the adoption consent is signed.
- The woman has the right to decide who visits the baby, name the baby, know of the baby’s health status, be informed about and make decisions as to medical treatment of the baby.
- The mother has the right to choose how much contact she has with the baby.
- The mother is encouraged to build tangible memories of her baby and participate in plans for the future of the baby.

¹⁴² Minutes of Special Meeting, Between the Standing Committee on Adoption and representatives of Maternity Hospitals and others involved in the care of unmarried mothers, 1977

¹⁴³ Submission 259

- The woman and her family have access to support and counselling services.¹⁴⁴

Policy development by private adoption agencies

- 4.43** As explained in chapter 1, there were many agencies operating in NSW in the early 1970s. Evidence presented to the Committee suggested that policy on adoption was regularly updated after the mid 1970s. While there was some suggestion that formal written policy would have been required at the time of registration after the introduction of the Adoption of Children Act in 1967, the Committee was not provided with any such policy documents.
- 4.44** Anglicare currently has two adoption programs, one for the adoption of healthy babies, and the second for the adoption of children with a disability. All staff are provided with the policy documents outlining standard practices of the two programs. In 1999, Anglicare administered five adoptions of healthy babies, and three adoptions of babies or children with a disability. Centacare also provides a wide range of adoption services today, including assessment of adoptive applicants, arranging pre-adoptive foster care, counselling to women and couples considering adoption, and post adoption support. Centacare also has extensive documentation on adoption policy and procedure. In 1999, Centacare arranged eight infant adoption and expects that for the year 2000, the agency will have made 12 infant adoptions.
- 4.45** Barnardos *Find a Family* program offers an integrated service of adoption and permanent family care to children requiring long term placement and young people who have been permanently removed from their birth parents by the Courts and who have been made Wards of the State, or whose parents have signed consent for their adoption. In recent years Barnardos has been involved in the placement of children over the age of 2 years with severe emotional disturbances. Between 1984 and 1999 270 children have come into the program and received a service. A total of 81 children and young people have been adopted.¹⁴⁵

Removing the secrecy – a move to open adoption

- 4.46** By the mid-1970s the practice of 'secret' adoption stipulated by the Adoption of Children Act was under attack. Adoptees and birthparents began to speak about the negative consequences of secrecy and to campaign for changes to the laws and practice that prohibited adoptees from discovering their true origins and birthparents from finding out about their relinquished child. At the same time as the stigmas of illegitimacy and unmarried parenthood were fading the legal disadvantages confronting ex-nuptial children were being overcome by the passage of legislation.¹⁴⁶

¹⁴⁴ Submission 259

¹⁴⁵ For an extensive overview of the services provided by Barnardos, *Fantasy and Reality: Older Age Adoption*, paper presented to *Putting the Pieces Together, 7th Annual Adoption Conference*, Hobart 2000

¹⁴⁶ Traditionally, a child born out of wedlock suffered gross discrimination in law and from the community. In the mid 1970s, all Australian States except WA enacted specific legislation removing

The view that adult adoptees should have access as of right to their original birth records began to be discussed enthusiastically and rapidly become the dominant view of professionals working in the area of adoption.¹⁴⁷

- 4.47** In the mid 1970s parties to an adoption were able to have some degree of information about or contact with each other. This was the beginning of 'open adoption' – the possibility of some form of on-going relationship between the child and the birth mother or father, or some other member of the original family. While the contact between parties was restricted in the 1970s, in the early 1980s the Department organised several adoptions which allowed for varying degrees of contact between the parties to the adoption.
- 4.48** The *Adoption Act 1984* (VIC) was landmark legislation which provided for contact between children, birth families and adoptive families to be included in adoption orders. This legislation was unique to Australia and internationally, and was to have an impact on openness in adoption in other states. In NSW major changes to adoption law to allow for access to records occurred in 1990 with the Adoption Information Act.
- 4.49** While the *Adoption of Children Act 1965* was not changed substantially prior to 1998, adoption practices changed radically in NSW to allow for a more flexible approach to adoption. In particular, by the 1980s, more attention was given to the needs of the mother, including improvements in counselling and support before and after the adoption. Other changes to practices included the provision of photographs of the child for the birth parent(s), meetings between the birth parent(s) and adoptive parents at the time of placement and afterwards, and the involvement of the birth parent(s) in the selection of the adoptive parents.

Adopted persons contact register

- 4.50** In 1976 NSW became the first state to establish an Adopted Persons Contact Register. The Register established a system whereby contact and reunion could be achieved by an adoptee over the age of 18 years and a birth parent or other member of the biological family. The Department was responsible for administering the register and providing non-identifying information from adoption files for adoptees and birth parents. Adopted children under the age of 18 could only register if they had the consent of their adoptive parents. The interest in the Register increased over time and by 1989 there were 8000 names on the Register.
- 4.51** Many adoptees and birthparents were dissatisfied with the limited rights to information provided by the Contact Register and lobbied for the right to access 'identifying information', such as original and amended birth certificates and medical or social information that could identify or trace another party to an adoption. The first Australian Conference on Adoption in 1976 demonstrated strong support for access to identifying

the status of illegitimacy and providing that the parent-child relationship should be determined regardless of whether the parents were married to each other.

¹⁴⁷ NSW Law Reform Commission., *Review of Adoption Information Act 1990*, NSW Law Reform Commission, Sydney, 1992

information. The impetus for reform in NSW was further strengthened by the freeing of adoption records in several overseas jurisdictions and other Australian States.

Adoption Information Act 1990

- 4.52** In 1989, the NSW Legislative Council's Standing Committee on Social Issues completed its inquiry into adoption information. The Committee recommended unanimously that adoptees should have unqualified access to their original birth certificate once they reached 18 years of age and further information to enable identification if necessary. The Committee also recommended that birth parents have retrospective access to the amended certificate and other information if needed to assist identification once adoptees reached 18 years of age. The inquiry and final report received wide support and recognition and most of the recommendations were enshrined in the Adoption Information Act.
- 4.53** The Act gives adopted people and birth parents the right to access 'identifying' information about each other and the opportunity to make contact. The Act also allows adopted people and birth parents to register a contact veto with the Department. This means that access to the birth certificate will only be allowed if the person seeking it undertakes not to attempt to contact the other person. Contravention of the veto is a criminal offence.

Review by the Law Reform Commission

- 4.54** In 1997 the NSW Law Reform Commission (LRC) released the final report of its review of the Adoption of Children Act.¹⁴⁸ The Commission recommended that the Act be rewritten to reflect contemporary attitudes to adoption practice and to children's rights. In particular, it suggested that the adoption process should be characterised by openness, instead of the secrecy promoted by the 1965 Act. The recent *Adoption Act 2000* incorporated most of the recommendations made by the LRC (Aspects of the new Act are discussed in chapters 5 and 11.)

Intercountry adoptions

- 4.55** Before 1973, the adoption of overseas-born children was uncommon. Inter-country adoption is said to have really commenced in Australia in 1975 when several hundred war orphans were airlifted to Australia from South Vietnam. While adoptive parents taking the Vietnamese children were motivated primarily by humanitarian concerns the event generated considerable interest for infertile couples with little chance of adopting a local infant.

Greater interest in adopting 'needy' children from overseas coincided and was influenced by the fall in the number of local children available for adoption. Couples with fertility problems began to see inter-country adoption as their solution.¹⁴⁹

¹⁴⁸ *Review of the Adoption of Children Act 1965 (NSW)*, NSW Law Reform Commission, Sydney, March 1997

¹⁴⁹ McDonald & Marshall, op.cit., chapter 8

4.56 The Department also noted the correlation between the 'adoption crisis' and the demand for overseas adoptions. In the 1975 Annual Report the Department observed that:

Generally, it is expected that the number of applications to adopt children from overseas countries will continue to grow whilst the present level of demand is maintained and the number of local children becoming available for adoption continues to fall.¹⁵⁰

4.57 In the following year's Annual Report, the Department suggested that because of the downturn in the number of babies becoming available for adoption "restructuring of the branch is planned to place more emphasis on the adoption of wards...and the growing interest in the adoption of children from overseas countries".¹⁵¹ By the 1980s nearly 20 per cent of the Adoption Branch's staff were allocated to servicing the requirements of people wishing to adopt children from overseas. The 1981 Annual Report noted that inquiries about adoption of children from another country exceeded inquiries for adoption locally and by 1991:

The adoption of children from other countries continued to be the most significant area of the department's adoption program.¹⁵²

4.58 There were initial problems associated with the inter-country adoption program including the misconception that there was an infinite number of overseas children awaiting adoption. While many in the community believed there were large numbers of children from developing countries awaiting adoption, governments and adoption practitioners were concerned about the safety of these children. In 1987 a major NSW program to adopt babies and children from Sri Lanka was closed following the public disclosure of a baby-farming racket involving placement with couples in West Germany.¹⁵³ As the complex and difficult matters associated with overseas adoption were better understood, the Department responded with the employment of more specialist staff.

4.59 The assessment of adoptive parents for intercountry adoptions was similar to the assessment for adoptive parents seeking a local adoption. A major difference was that the former group was required to demonstrate an understanding of and commitment to cross-cultural issues. In her paper to the 7th Annual Adoption Conference, Janette Pepall explained that since the early 1970s she and her husband have adopted five children from Australia, Vietnam, Sri Lanka and Hong Kong.

Raising a child of a minority race in a majority culture is not easy, but it can be done successfully as long as we are prepared for the task, and prepared to take the responsibility it entails.¹⁵⁴

¹⁵⁰ Department of Community Services, Annual Report, 1975

¹⁵¹ Department of Community Services, Annual Report, 1976

¹⁵² Department of Community Services, Annual Report, 1991

¹⁵³ M. McDonald, 'Adoption in the 1980s', *Current Affairs Bulletin*, September 1988.

¹⁵⁴ J. Pepall, *The Intercountry Child - Building Self-esteem and Racial Identity*, 7th Australian Adoption Conference, 'Putting the Pieces Together', Hobart 2000, p.121-132

- 4.60** The establishment of support groups for families who had adopted a child from overseas assisted in improving the resources available and made overseas adoption a more attractive option for other prospective parents. By the mid 1980s there were specific support groups for families adopting children from India, Sri Lanka, Columbia, Chile, Bolivia and Brazil. These groups provided support and counselling, as well as important cultural links for the children.
- 4.61** Intercountry adoptions in Australia have increased by 400% since 1979-80 with an increase from 66 children adopted in that year to 244 in 1998-99. While information on the country of origin of these children has only been collected since 1987-88, the largest group of adoptions came from South Korea, with 41%, followed by India at 10%, Sri Lanka 9%, the Philippines 7% and Thailand 7%.¹⁵⁵
- 4.62** The Committee understands that the number of intercountry adoptions is likely to continue to increase. The recent bilateral agreement signed between Australia and China as well as the Australian signing of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption has created conditions conducive to an increase in the intercountry adoptions in the future.¹⁵⁶ At the time of writing the report, a number of Australian families were given approval to adopt babies from China.

Special needs programs

- 4.63** Policy on special needs adoption was slow to develop in NSW. The practice of deferring the adoption of children with special needs described in chapter 3 meant that prior to the mid 1970s, babies with a serious physical or intellectual disability, or older children, were considered to be 'unadoptable'. These children usually lived indefinitely in institutions or in a series of foster placements.
- 4.64** Whereas adoption agencies in the United States and the United Kingdom had programs aimed at matching families and children with special needs, no such program existed in NSW until the late 1970s. The impetus for change came as a result of the presentations by overseas social workers at the early national adoption conferences in 1976, 1978 and 1982. The head of the NSW Adoptions Branch in 1978, Mr T. O'Mara, commented at the time that the experience of overseas agencies with special needs children available for adoption "enlivened several of us in NSW to take positive action".¹⁵⁷ In 1982 the Department established a special unit to cater for such adoptions. With this unit in operation, the placement of children with disabilities began in earnest.
- 4.65** Several of the private adoption agencies have also developed special needs programs. These programs require extensive work in the recruitment of adoptive families and the management of interim foster care arrangements. Post adoption services are also an

¹⁵⁵ S. Kelly, *Adoption in Australia - an overview*, op.cit., Hobart 2000, p.107-120

¹⁵⁶ For more information on the Hague Convention and intercountry adoptions see Catherine Gray's paper, *The Hague Convention at the 7th Australian Adoption Conference, 'Putting the Pieces Together*, Hobart 2000, p.93-106

¹⁵⁷ Marshall., op.cit., 1984, p.11

integral and essential part of the program. As explained in chapter 1, Anglicare has a program for the adoption of babies and children with special needs which has been running for 13 years.

At any given time there are around twelve children with special needs in our program between placement in foster care and the finalising of the adoption order. Working with these children, their birth families, foster families and adopting families is intensive.¹⁵⁸

4.66 Barnardos *Find a Family* program also provides a service for children with special emotional and behavioural needs. Centacare does not operate a specific special needs program but organises a small number of special needs adoptions as required.

Conclusion

4.67 Most professionals working in the adoption field told the Inquiry that the early to mid 1970s mark the beginning of the changes in attitude and adoption practice. In the 1970s the situation for unmarried mothers began to change in regard to alternatives to adoption. This is indicated by the sharp drop in the number of healthy, Australian babies placed for adoption. The key factors contributing to this change included the introduction of significant income support from the Federal government, improved access to childcare and public housing, and the growing acceptance of single parents and the rights of women. Similarly, there was improved access to family planning information, abortion and the contraceptive pill. There was also a major change in thinking that it was in 'the best interests of the child' to be protected from illegitimacy by providing a two parent nuclear family. The move to a more open adoption process shifted the emphasis to maintaining biological connections.

4.68 Changes by the 1980s resulted in a better understanding of the impact of adoption on the single mother and a more sensitive approach to adoption practice. Despite this, as outlined in Part Two, many of the submissions from mothers who relinquished a child in the late 1970s and 1980s suggest unmarried mothers were still being treated in a punitive and patronising way. The Committee recognises that attitudes changed at different paces, and that a number of adoption professionals were reluctant to abandon past practices. As a result, some women continued to suffer. As Wendy McCarthy explained:

...the stigma attached to being an unmarried mother did not go away miraculously from one decade to another. It lingered on for a long time.¹⁵⁹

¹⁵⁸ Anglicare Adoption Services, Annual Report, 1998

¹⁵⁹ McCarthy evidence, 25 October 1999

Chapter 5 Defining unethical and unlawful practices

Custom and law in a society do not always describe what is truly ethical however. The law may permit actions that are unethical while disallowing actions that are ethical. For example, the U.S. Supreme Court's Dred Scott decision declared slaves to be property, not citizens, a decision that was unethical but still legal (60 U.S. 393, 19 How. 15L. Ed. 691). A law or standard defining certain actions as legal does not, therefore, mean that the action is ethical.¹⁶⁰

The terms of reference for the inquiry asked the Committee to consider whether professional practices in the administration and delivery of adoption and related services involved unethical or unlawful conduct. This chapter outlines how the Committee has approached the questions of whether past practices were unethical or unlawful. Initially the chapter outlines the distinction between law and ethics in the context of adoption and examines the dilemmas faced by the Committee in deciding whether past practices were unethical. The chapter then provides an overview of the legal and ethical standards that, in the Committee's view, applied during the period examined by the inquiry.

Distinguishing between unethical and unlawful conduct

- 5.1** The Committee has considered the question of whether unethical practices took place separately from the question of whether unlawful practices took place. This section explores the distinction between unethical and unlawful conduct for the purposes of this inquiry.
- 5.2** On one level it could be argued that law and ethics are essentially the same – that is, they identify conduct that is either 'right' or 'wrong'. Yet the practices examined in this inquiry demonstrate that law and ethics do not necessarily coincide. Laws are often framed or amended in response to perceived community standards and acknowledged ethical principles. The nature of statutes is such that subsequent interpretation and implementation do not always coincide with the ethical principle, especially when social mores continually change ahead of legislation.
- 5.3** The laws governing adoption reflected certain ethical values but did not provide a comprehensive guide to ethical adoption practice. For example, adoption law in NSW has always included the ethical principle that the best interests of the child must be the prime consideration when making adoption arrangements. However, the law has only recently begun to deal with ethical questions of how best to support or counsel a mother who is considering relinquishing a child for adoption. By contrast, from the 1950s onwards, professional codes of conduct and documented procedures for departmental adoption workers have provided increasingly detailed ethical guidelines for the care of all parties involved in the adoption process.
- 5.4** An examination of whether past practices were unethical goes beyond the question of whether professionals adhered to the law to a consideration as to whether or not past

¹⁶⁰ L. Babb, *Ethics in American Adoption*, Westport Connecticut, Bergin & Garvey, 1999, pp.73-74

adoption professionals applied proper professional standards. While law provides general guidelines for adoption practices, the question of whether unethical practices occurred involves careful examination of the way that adoption professionals discharged their duties.

- 5.5** It is quite possible for ethics and law to conflict. That is, some practices considered to be the 'right' or 'ethical' thing to do may actually have been unlawful. A number of witnesses before the Committee have stated that certain practices, such as not allowing a mother to see her child, were based in a belief that what they were doing was best for both mother and child. In their view, this would have constituted ethical practice. However, other evidence has suggested that refusing to allow a mother to see her child prior to signing consent to adoption was unlawful. The law may also permit acts that are widely accepted as being unethical: a prime example was legalised slavery in the southern states of America.
- 5.6** A further distinction between law and ethics is that ethical values are rarely uniform. The evidence to this inquiry has demonstrated that at any point in time, different ethical views co-existed within society. For example during the 1950s and 1960s, many people held deeply negative views about single mothers. Yet during this period there was also considerable support for the right of single women to keep their children. As noted in chapter 2, this support was reflected in the parliamentary debates surrounding both the *Child Welfare Act 1939* and the *Adoption of Children Act 1965*. Looking back at past adoption practices, it is often possible to identify in the treatment of birth parents multiple and contradictory practices that reflected competing ethical values.
- 5.7** By contrast, only one set of laws applied to adoption practices in NSW at any given point in time. While the law changed during the period under review, past practices need to be examined by considering only one set of standards. It is therefore relatively easy to determine what types of practice are lawful or unlawful, however questions of ethics are often more complex and difficult to answer definitively.
- 5.8** It is also important to note that the consequences of unethical and unlawful practices are quite different. Unlawful conduct may have significant practical consequences. Depending on the nature of the conduct, an unlawful act may result in a person being found to be guilty of a criminal offence. A person who suffered legally recognised loss as a result of unlawful conduct may be entitled to compensation. Significantly, a failure to follow proper legal requirements in relation to adoption may, in some cases, allow an adoption order to be challenged in court.
- 5.9** Unethical practices do not have the same range of clearly defined consequences. A finding that practices were unethical would normally give rise to community concern and might have professional or personal consequences for those practitioners involved. However, such a finding would not affect the legal validity of the adoption.

What does 'unethical' mean?

- 5.10** Broadly speaking the word 'ethical' can be understood as relating to the morality of human conduct: ethics therefore form a set of moral principles to guide human action. Ethics are bound up in questions of personal value and morality. Different groups within society may hold competing ethical beliefs with the result that a society may display a range of ethical values, some of which are incompatible with others.

5.11 Within professions, however, there is generally a shared commitment to commonly recognised ethical principles. Doctors have been required to subscribe to the highest standards of ethical and moral conduct since Hippocrates more than 2000 years ago. The World Medical Association adopted the modern version of the Hippocratic Oath in 1948. Similarly, the nursing profession has codes of conduct and minimum standards for professional practice. In the Australian context, nurses were guided by the code of ethics developed by the International Council of Nursing in 1953.

5.12 A feature of professional organisation is that members agree to a set of common moral values that form the basis of ethical practice. It is therefore generally accepted that ethical professional behaviour involves adherence to the rules of conduct adopted by a particular profession. Thus, the Australian Association of Social Workers 1999 Code of Ethics defines ethics as:

A system of beliefs about what constitutes moral judgement and right conduct. Ethics are moral principles adopted by a culture, group, profession or an individual to provide rules for *ethical* conduct.¹⁶¹

In the context of adoption, Babb has noted that professional ethics should be distinguished from less precise moral concepts such as ‘values’:

I define *values* as those ideals regarded as desirable in adoption practice, and *ethics* as the formal, professional rules of right and wrong conduct.¹⁶²

5.13 The Committee agrees that in the context of adoption practices, ‘ethics’ refers to formal rules of right and wrong conduct that govern the behaviour of professionals who delivered adoption and related services. In many cases, these rules will be in the form of written codes or practice guidelines that have been adopted by the governing professional association – for example the Australian Association of Social Workers Code of Ethics. Unlike broader issues of morality and ethics, professional rules are usually uniform within the profession, and relatively easy to identify. Whilst ethical rules may be open to interpretation, or may require practitioners to weigh competing considerations, they provide a consistent set of standards by which conduct can be examined. The Committee has therefore examined the question of whether professional adoption practices were unethical by reference to professional standards of conduct.

Core values of adoption professionals

5.14 During the period under review, a range of professions were involved in adoption, particularly prior to the commencement in 1967 of the *Adoption of Children Act 1965*. These included social workers, doctors, lawyers, nurses and the clergy. While different professions have different codes, the Committee considers that codes of conduct for all professions involved in arranging adoptions incorporate the following core obligations:

- to act honestly and in a manner that promotes the welfare of society,

¹⁶¹ Australian Association of Social Workers, *Code of Ethics*, 1999, p.28

¹⁶² L. Babb *op.cit.*, p.28

- to act in the best interests of the client – this involves the use of specialised professional knowledge to promote the best possible outcome for the client,
- to respect the autonomy of the client – this involves ensuring that the client is able to make an informed choice which the professional will then act upon,
- to respect the privacy of the client,
- to avoid conflicts of interest – for example, by not acting for two or more clients whose interests conflict,
- to ensure that they remain up to date with professional knowledge in their field so as to apply ‘best practice’ when acting in their client’s interests.¹⁶³

5.15 These obligations recognise that there can be significant power imbalances in the relationship between a professional and people who rely upon them for assistance. Robert Fullwinder has noted that people who seek assistance from medical or legal professions are particularly vulnerable:

Faced with possibly terrible consequences for their well-being, they not only are unable on their own to devise means to serve their needs, they are unable even to understand their needs except as assessed by the doctor or lawyer...This makes patients and clients especially vulnerable to exploitation – to being told they have needs which they do not.¹⁶⁴

The ethical codes for those professions are therefore intended to ensure that such vulnerability is not exploited. Rather, professional expertise should be used to ensure that a person seeking assistance does not suffer as a result of their disempowered position.

5.16 Many pregnant women considering adoption of their child were in a position of similar vulnerability with respect to professionals who advised them. Evidence to the Committee indicates that women were often unaware of what the effects of pregnancy would be, they were unsure about the options available to them, and were not able to devise solutions to problems they were experiencing without expert assistance. By contrast professionals possessed specialist knowledge about pregnancy and adoption. Many professionals, such as doctors, also occupied positions of significant authority within the community. These professionals were ethically obliged to properly assist the women.

Identifying the client

5.17 In many cases, the natural mother was not the client of the professional. Rather, the professional acted on behalf of parents who wished to adopt a child. For example, solicitors involved in arranging adoption were often engaged by adoptive parents. In other

¹⁶³ For more discussion of professional ethics, see M. Coady and S. Bloch, (Eds), *Codes of Ethics and the Professions*, Melbourne University Press, 1996

¹⁶⁴ R. Fullwinder, ‘Professional Codes and Moral Understanding’ in M. Coady and S. Bloch, (Eds), *Codes of Ethics and the Professions*, op.cit., p.73

cases they were initially engaged by the mother's parents. Because professional codes of ethics often emphasise the need to service the interests of the client, it could be argued that mothers were not always protected by the ethical obligations of adoption professionals.

- 5.18** However, as will be discussed below, identifying the client was often complex in adoption arrangements. Often a single individual would advise more than one party to the adoption. For example, the Committee has heard evidence from a number of mothers that, on discovering that they were pregnant, they were referred to an obstetrician who then made arrangements for another patient to adopt the child. Such arrangements, involving provision of service to clients with different interests in the same 'transaction', clearly raise significant ethical concerns about conflict of interest.
- 5.19** Even where a pregnant woman was not formally the client of an adoption practitioner, the Committee considers that practitioners had an obligation not to rely on the woman's vulnerability to advance their client interests. For example, it would have been inappropriate for a lawyer acting for prospective adoptive parents to advise a pregnant woman that adoption was the best course of action.

Should practices be judged by current or past standards?

- 5.20** Most people who appeared before the Committee would agree that by today's standards, many past adoption practices were unethical. Testimony to this inquiry about the impact on individuals of past practices is now supported by extensive literature that details the life-long and often traumatic impact of adoption on relinquishing parents and their children. As a result, current adoption practice is dramatically different to past practice. Adoption professionals, such as social workers, now have extensive ethical codes, manuals and handbooks that require them to ensure that any parent considering relinquishment of their child is thoroughly counselled about all aspects of adoption including long-term consequences and alternatives to adoption. These practices are reflected in the *Adoption Act 2000*, which will commence operation in 2001.
- 5.21** However, the Committee has been careful not to judge past practices by current standards. It is sufficient to note that past practices did not meet current standards and it is therefore important to ensure that there is no return to past practices. Issues for current and future adoption practice are explored in Part Three.
- 5.22** The Committee has considered past practice by reference to the ethical standards in place at the time. The failure to meet the standards of the time is a far more serious matter than failure to meet current standards which, for example, may be based on a more complete knowledge about the consequences of adoption. It is also difficult to justify criticism of professionals on the basis that they did not adhere to ethical standards which were not then in existence.
- 5.23** The Committee has therefore sought out the professional standards that applied during the period of this inquiry. The Committee has also attempted to determine the state of contemporary professional knowledge about adoption and its long-term consequences in order to determine whether adoption professionals adhered to standards of best practice.

Ethical social work practice

- 5.24** During the period under review, social workers played an increasingly important role in the administration and delivery of adoption services. Many concerns raised during the inquiry relate to social work practices. While concerns have been raised in relation to all professions involved in adoption, this section outlines the Committee's understanding of social work ethics during the period.
- 5.25** Over the past fifty years, social workers have put a considerable amount of work into defining their professional ethics and values. The literature from the 1950s and 1960s identifies four key values of social casework: acceptance, self-awareness, client self-determination and knowledge.
- 5.26** The principle of *acceptance* is based on a belief in the innate worth of the individual and is demonstrated by a worker:
- maintaining an attitude of goodwill toward the client, whether or not his (sic) way of behaving is socially acceptable and whether or not it is to the worker's personal liking.¹⁶⁵
- Acceptance is a prerequisite for developing a climate of trust between the client and the worker, without which it is almost impossible to help the individual.
- 5.27** *Self-awareness* refers to the worker's own knowledge of herself, including an awareness of her needs, prejudices, blind spots, likes and dislikes, so as to avoid imposing her own ideals and prejudices on the client.¹⁶⁶ Self-awareness is essential to developing a relationship with the client which is neither coercive nor moralistic and which will allow the client to establish a trusting relationship with the worker.
- Only if we understand to some extent our own motivation can we leave the client free to establish himself securely, first with the social worker and thus later with others.¹⁶⁷
- 5.28** The AASW's 1959 interim code included a principle that combined acceptance and self-awareness.
- The social worker has an ethical responsibility to arrive at an understanding of himself and his own professional attitude and to develop qualities of objectiveness, tolerance and understanding.¹⁶⁸
- 5.29** *Client self-determination* requires the worker to assist the client to make his own decisions, but not to make them for him:

¹⁶⁵ F. Hollis, *Casework: a psychosocial therapy*, New York, Random House, 1964, p.14

¹⁶⁶ G. Hamilton, (Ed), *Theory and practice of social case work*, 2nd edition, New York, Columbia University Press, 1951, p.40

¹⁶⁷ *ibid*

¹⁶⁸ AASW, Interim Code of Ethics, August 1957

the more he can make his own decisions and direct his own life the better, and the less the caseworker tries to take over these responsibilities the better.

This does not mean the worker is passive: he or she can offer suggestions and advice but only as opinions that the client is free to accept or reject and always with a view to enhancing his own ability to make decisions.¹⁶⁹ Nor is the principle absolute. If it appears the client may harm themselves or others, the worker would be expected to take a more authoritative approach.¹⁷⁰

In 1957, the AASW code of ethics included the following description of self-determination in its code of ethics:

Social workers recognise the client's right to make his own decisions, to use his own resources and to work out his own problems.

5.30 The principle of knowledge is based on the responsibility of social workers to develop and maintain proficiency and understanding of the profession.

A social worker shall endeavour to increase his professional competence, shall be willing to share his professional knowledge with his colleagues, and to apply it for the good of the community.¹⁷¹

5.31 The principles of social work were reflected in the *Adoption of Children Act 1965*, which considerably expanded the role of social workers in adoption. In 1967, Sister Mary Boromeo outlined social workers' legislative responsibilities under the new Act.

Since the social work profession is traditionally concerned with individuals and their dignity as individual persons, social workers operating within the framework of the N.S.W. legislation would seem to have responsibility to natural parents in the following areas: The natural mother must be given all information and assistance about her sole right to keep or surrender her baby as she decides is best...¹⁷²

Unlawful Conduct

5.32 The Committee has identified three possible types of unlawful conduct in relation to past adoption practices: procedural or administrative errors; criminal offences; and civil wrongs. The consequences of each are different.

¹⁶⁹ F. Hollis, op.cit., p.15

¹⁷⁰ ibid

¹⁷¹ AASW, Interim Code of Ethics, August 1957

¹⁷² Sister Mary Borromeo, 'The Natural Parents', *Australian Journal of Social Work*, February 1967, p.12

Procedural errors

5.33 Adoption legislation establishes set procedures for key steps of the adoption process such as applying for an adoption and taking consent. Over time these procedures have become more detailed, for example the *Child Welfare Act 1939* contained no requirements about how or when consent could be taken; the *Adoption of Children Act 1965* established certain requirements including the three day waiting period; the *Adoption Act 2000* creates further requirements, including the need for counselling prior to signing consent.

5.34 A failure to comply with the procedural requirements of adoption legislation would be unlawful. In most cases, such a failure would mean that an adoption order would not be made. For example, if an application for an adoption was made by someone who was not permitted to apply for an adoption, or if a consent was not properly witnessed, then the Court normally would not make an adoption order (provided that the Court was aware of the problem).

5.35 In relation to consents, the Adoption of Children Act included the following procedural requirements:

- consent must normally be given by each person who is a guardian of the child,¹⁷³
- consent should not be obtained by fraud, duress or other improper means,¹⁷⁴
- the consent document should not have been materially altered,¹⁷⁵
- the person giving the consent was at the time of signing the consent in a fit condition to give the consent and understood the nature of the consent,¹⁷⁶
- consent should not be taken before the birth of the child,¹⁷⁷
- consent should not be taken within three clear days of the birth of the child unless a medical practitioner certifies that the mother was in a fit condition to give consent.¹⁷⁸

5.36 Under past and present law, once the Court has made an adoption order, it will remain valid regardless of whether or not the procedural requirements of adoption legislation were followed. For example, an adoption order based on an invalid consent is nevertheless a valid adoption order. As explained in chapter 10, procedural errors can, however, provide a

¹⁷³ Depending on the domestic circumstances and age of the child, see s26.

¹⁷⁴ s31(1)(b)

¹⁷⁵ s31(1)(c)

¹⁷⁶ s31(1)(d)

¹⁷⁷ s31(2)

¹⁷⁸ s31(3),(4)

reason for the Court to discharge an adoption order, provided that discharge of the order is in the best interests of the child. Unlawful conduct therefore does not automatically terminate an adoption order.

- 5.37** While a failure to meet procedural requirements can be described as unlawful, such a failure it is not in itself a 'criminal' act. Procedural requirements of adoption law are quite separate to the criminal elements of the law. For example, under the *Adoption of Children Act 1965* taking a consent less than three days after birth without a doctor's certificate means that the consent will be 'defective' as defined by s 31 of the Act. But the consent taker will not have committed a criminal offence solely because they did not wait the requisite three days. People who fail to comply with procedural requirements of adoption legislation cannot be described as criminals unless they also commit a criminal offence.

Criminal conduct

- 5.38** Criminal actions, or 'offences', are actions that are unlawful and which result in a penalty being imposed on the person who committed the act. Adoption legislation creates a range of criminal offences. For example, Part 6 of the *Adoption of Children Act 1965* contains a series of sections that create specific offences. These include: presenting a forged consent, improperly witnessing a consent; and using undue influence to induce a person to offer (or refrain from offering) a child for adoption.¹⁷⁹
- 5.39** In some cases, practices that are unlawful because they do not comply with procedural requirements will also be criminal. For example, section 31(1)(b) of the *Adoption of Children Act* imposes a procedural requirement that consent must not be obtained by 'fraud, duress or other improper means'. Failure to comply with section 31(1)(b) would not amount to a criminal offence. However, section 57 makes it a criminal offence to use or threaten to use 'force or restraint' to induce a parent or guardian to offer (or refrain from offering) a child for adoption. In many cases, use of force or restraint would amount to 'duress' or other 'improper means' under the Act.
- 5.40** Time limits apply to when a prosecution for an offence under the *Adoption of Children Act 1965* can take place. Section 60(3) of the *Adoption of Children Act* requires that prosecution must commence either within 12 months of the date of the offence, or within six months of when the offence came to the knowledge of the complainant.¹⁸⁰ The Crown Solicitor has advised the Committee that:

The effect of s60(3) of the [*Adoption of Children Act 1965*] is that it is not possible to prosecute any offences under the Act for conduct that occurred during the 1960's, 1970's or 1980's. Although if a complainant was only made aware of the conduct constituting a breach of the [Act] within the last six months then that offence would still be within time, ...¹⁸¹

¹⁷⁹ For a full list of offences, see *Adoption of Children Act 1965*, Part 6; *Adoption Act 2000*, chapter 9

¹⁸⁰ s60

¹⁸¹ Crown Solicitor's Office NSW, *Advice*, 4 December 2000

In addition, the written consent of the Minister must be obtained before any prosecution may commence.¹⁸²

5.41 Apart from specific criminal offences outlined in the *Adoption of Children Act 1965*, it is possible that some past practices may at times have constituted offences under the *Crimes Act 1900*, or other Acts that create offences. Time limits do not always apply to such offences. In this inquiry, the Committee has not examined legislation that does not specifically relate to adoption.

5.42 Under the criminal law, a person is presumed to be innocent of an alleged offence until proven guilty. A successful criminal prosecution requires the prosecution to prove 'beyond reasonable' doubt that a person is guilty of an alleged offence. Courts impose strict requirements on the types of evidence that can be produced. Given that a significant period of time has elapsed since many of the alleged adoption offences took place, it is unlikely that sufficient legally admissible evidence could now be obtained to support prosecution. In this regard, the Crown Solicitor has advised that:

Establishing any offences beyond reasonable doubt would be difficult due to the fact that with the effluxion of time the necessary evidence may all be lost.¹⁸³

Civil wrongs

5.43 Apart from the specific obligations imposed by adoption legislation, the law imposes general duties on people involved in adoption. These include a 'duty of care' to avoid actions that can cause reasonably foreseeable harm to others. Breach of duty of care is usually referred to as negligence. A breach of duty of care, or another legally imposed duty, that results in harm to a person can be referred to as a 'civil wrong'. Civil wrongs are in a sense unlawful, but a person who has committed a civil wrong will not be a criminal.

5.44 Where a person has suffered injury as a result of a civil wrong, they may in some cases be able to launch court action to recover monetary compensation for 'personal injury'. The law imposes strict time limits on when a person is allowed to commence an action for personal injury. In most cases, a personal injury action must be brought before the court within three years of the civil wrong having been committed. This means that it is generally not possible to claim compensation for personal injury resulting from adoption practices that occurred during the 1960s and 1970s. Compensation and time limits are discussed further in chapter 10.

Adoption laws

5.45 Under past and present law, an adoption is a judgment of the Supreme Court of NSW. These judgments are usually referred to as adoption orders. An adoption order terminates the legal relationship between the child and its natural parents and establishes a new legal relationship between the child and the adoptive parents. Effectively, all legally recognised

¹⁸² *Adoption of Children Act 1965* s59

¹⁸³ Crown Solicitor's Office NSW, *Advice*, 4 December 2000

rights and obligations of the natural parents are transferred to the adoptive parents. These rights include the right to care and custody of the child and the right as guardian to make decisions regarding the health and welfare of the child.

- 5.46** During the period under review, two different Acts of Parliament have governed adoption. Between 1950 and 1967, adoptions were governed by the *Child Welfare Act 1939*. In 1965, the NSW Parliament passed the *Adoption of Children Act 1965*. The Adoption of Children Act became law on 7 February 1967. Up until 1967 therefore, all adoptions were dealt with under the Child Welfare Act. At the time of this report, the Adoption of Children Act remains in force. However, in October 2000, the Parliament passed the *Adoption Act 2000*; this Act will replace the Adoption of Children Act and become law in early to mid 2001.
- 5.47** A past adoption practice was unlawful if it was contrary to the law in force at the time that the practice occurred. For example, arranging a private adoption after the *Adoption of Children Act 1965* came into force in 1967 would have been unlawful. However, it was completely lawful to arrange a private adoption prior to the 1967 commencement of the Act. Adoption law has changed considerably during the period covered by this inquiry. The Committee notes therefore that some practices that took place during the period examined in this inquiry were lawful at the time but are now unlawful. The key features of adoption law between 1939, and 2000 are outlined in Table 2. One of the most important changes to adoption law during the past decade has been the introduction of the *Adoption Information Act 1990*. Table 3 outlines the main features of the law relating to accessing adoption information.

The Committee's approach to allegations of unethical or unlawful conduct

- 5.48** The Committee has heard a range of allegations about past adoption practices. These are considered in Part Two of this report. At times it has been difficult to determine whether some allegations are accurate, and if so, how widespread such alleged practices were. In some cases there is common agreement that certain practices occurred during the period under review. For example, it is widely accepted that mothers were often denied access to their child after birth. In other cases it difficult to independently verify individual allegations of misconduct. This does not mean that such misconduct did not take place; however, there is now only limited evidence in relation to some practices.
- 5.49** The Committee has not been able to follow up all allegations made in this inquiry and has therefore concentrated on those allegations which have been most commonly presented during the inquiry and which are most serious. These allegations relate to treatment during the pregnancy and birth, as well as the consent-taking process. Rather than concentrate on individual cases, the Committee has described the alleged practices and then stated whether it considers such practices to have been unethical or unlawful.
- 5.50** In looking at the question of whether a practice would have been unlawful, the Committee has not distinguished between the various types of unlawful conduct discussed in this chapter. The Committee has merely stated whether or not, in its view, certain practices that have been described in this inquiry were unlawful.

Table 2: Key features of Adoption Law 1939-2000

	<i>Child Welfare Act 1939</i>	<i>Adoption of Children Act 1965</i>	<i>Adoption Act 2000</i>
Commencement date	1 December 1939	7 February 1967	Early 2001 (proposed)
General matters			
Guiding principles	'That the welfare and interest of the child will be promoted by the adoption': s167(c).	The welfare and interests of the child shall be regarded as the 'paramount consideration': s17.	In addition to the 'paramount consideration' the Act requires adoption to be a service to the child, not to adoptive parents wishing to care for a child: s7.
Effect of adoption order	Most of the parental rights of the birth parents transferred to the adoptive parents except the right of the child to inherit property. The child became the child of the adoptive parents, as if 'born to the parents in lawful wedlock': s168.	The transfer of parental rights to the adoptive parents is maintained in the Act with the addition of the child's right to inherit property from the adoptive parents: s35(1)(a),(b).	The Act recognises that the legal status of the child is transferred from one family to another. However, it also recognises the benefit of maintaining a relationship with the birth parents: s95.
Private adoptions	The Act permitted the arrangement of adoptions by private individuals with minimal involvement from the Department (private adoptions).	Private adoptions were not permitted, unless the child was related to one of the adoptive parents. All non-familial adoptions must be arranged by the Department or a registered adoption agency: ss10, 16.	Private adoptions not permitted. All adoptions, including applications by relatives or step-parents, must be arranged by the Director General or a licensed private agency: ss10, 11.
Discharge of Adoption orders	An adopting parent or 'reputable person' on behalf of an adopted child could apply to the court to vary or discharge an adoption order, 'subject to such terms and conditions as it thinks fit': s170.	The Director-General and the Attorney-General could apply to the Court for discharge of an adoption order. Discharge can only be granted if in the 'best interests' of the child: s25.	All parties are able to apply to the Court for discharge of an adoption order. Discharge can only be granted if in the 'best interests' of the child: s93.
Consent			
Who can give consent?	If the parents of the child were married the consent of both parents was required. If the parents were not married, only the mother's consent was necessary: s167(d).	If the parents were married, the consent of both parents was required. If they were unmarried and not living together, only the mother's consent was necessary. Since the early 1990s the consent of the father has usually been required, even if he is not living with the mother: s26(3)(a), (3A).	Consent must be provided by each parent, regardless of their marital status: s52.

When can consent be given?	Consent could be taken any time after the birth of the child.	Consent normally could not be taken until three clear days after the birth (in effect, this meant that consent could not be taken until the fifth day after birth). However, the Act allowed consent to be given earlier provided that a medical practitioner certified that the mother was in a fit state to give consent: s31(3).	Consent may not be taken until at least 30 days after the birth of the child and 14 days after the person giving consent is given copies of the consent document and written information about adoption: s60.
Dispensing with consent	The consent of a parent or guardian could be dispensed with if the court deemed it was 'just and reasonable to do so': s167.	The Act lists several grounds on which the court may dispense with consent including if the person is not capable of giving consent or is considered by the court to be unfit to fulfil a parental role: s32.	The new Act reduces the number of specific grounds on which consent may be dispensed with but includes a general provision for the court to dispense with consent if in the child's best interests: s67.
Counselling	There was no requirement for counselling under the Act.	No requirement in the Act, but under the Adoption Regulations, counselling was supposed to be provided by private adoption agencies to assist an expectant mother to make a decision about the future of her child.	Consent may not be given unless a counsellor certifies that the person giving consent has received counselling: s63.
Revocation	The Act did not change the common law position that consent could be revoked at any time until the adoption order was made.	Consent could be revoked at any time until 30 days after the consent is given, provided the court had not already made an adoption order: s28.	Consent can be revoked before the end of the period of 30 days beginning on the day on which the consent document was signed: s40.
Guardianship			
Guardianship prior to the adoption	The Act did not change the common law position that where the parents were not married, the mother was the legal guardian until the time that the court made the adoption order.	Guardianship was transferred to the Director-General after the consent was completed: s34.	Following consent, guardianship will continue to be transferred to the Director-General: s75.
Offences			
Offences	The Act originally included offences of a general nature that were not specific to adoption. In 1961 the Act was amended to prohibit unauthorised advertising and payments in relation to adoption: ss171, 171A.	A range of offences were listed in the Act including the improper witnessing or forging of consents, making unauthorised payments in relation to adoption and unauthorised attempts by the birth family to communicate with the adopted child. A prosecution could not be commenced without the Minister's approval: Part 6.	Most of the offences outlined in the 1965 Act are reproduced in this Act, except for those designed to prevent contact between members of the birth family and adoptive family, reflecting the principle of openness enshrined in the new Act: chapter 9.

Unauthorised payments	Payments to adoptive parents were prohibited (unless authorised by the Court) but payments to the natural parents were originally permitted. Therefore, commercial adoption arrangements were lawful. However, in 1961 payments in relation to adoption were prohibited, unless authorised by the Court or Director General:s170.	The Act maintained the general prohibition on adoption payments, with limited exceptions, including the payment of medical and hospital expenses in relation to the birth, or other payments authorised by the Court of the Director General.	The Act prohibits unauthorised payments in relation to adoption.
Advertising	Advertising in relation to adoption was originally allowed. This was prohibited following amendments in 1961: s171A.	Advertising is generally prohibited unless approved by the Director General: s51.	The new Act includes minor amendments to the relevant provisions but the prohibition on advertising remains in place: s178.

Table 3 Access to adoption information 1965-2000

	Adoption of Children Act 1965	Adoption Information Act 1990	Adoption Act 2000
Commencement date	7 February 1967	2 April 1991	Early 2001 (proposed)
Guiding principles or objects			
	The Act introduced strict confidentiality requirements in relation to adoption.	To provide adult adopted persons and birth parents greater access to identifying information about each other and to facilitate contact: s3.	Objects of the Act include 'to ensure that adoption law and practice assist a child to know and have access to his or her birth family and cultural heritage' and 'to encourage openness in adoption': s7.
Access to adoption information			
	Not applicable.	The Act allows adopted people and the birth parents of an adopted child more than 18 years of age to access identifying adoption information.	The new Act maintains the rights to identifying adoption information enshrined in the 1990 Act.
Contact and reunion			
	The Act did not facilitate contact or reunion. In 1976 the Department established a voluntary Adopted Persons Contact Register to facilitate reunions.	The Act changed the name of the Adopted Persons Register to the 'Reunion and Information Register' but the purpose and function remained the same: Part 4.	The purpose and function of the Reunion and Information Register is maintained under the new Act: Part 5.

Advance Notice			
	Not applicable	The Act was amended in 1995 to establish an Advance Notice system to delay the release of personal information if requested: Part 2.	The new Act maintains the Advance Notice system: Part 3.
Contact vetoes			
	Not applicable	The Act allows for either the birthparent or adopted person to put a veto on contact with the other party. If a veto is in place, identifying information will only be released if the person signs an undertaking not to contact the person. The veto remains in force until removed by the applicant or the death of the applicant: Part 3.	The Contact veto system is maintained in Part 4 of the Act.
Contact Veto Register			
	Not applicable	The Act required the establishment of a Contact Veto Register: s19. Section 29 of the Act originally required the Director General to report to the Minister ten years after the commencement of the section on whether the Contact Veto Register should be closed. However, this section was omitted in 1995 to prevent closure of the register without Parliament's consideration: <i>Adoption Information Amendment Act 1995</i> .	The Contact Veto Register can not be closed without Parliament's consideration.
Offences			
	The Act included various offences designed to prohibit unauthorised contact between the adopted child and its birth parents: ss 49, 49A & 53.	It is an offence to contact an adopted person or birth parent if they have registered a Contact Veto: s28, or to disclosure adoption information without the appropriate authorisation: s15.	Under the new Act it will be an offence to try to contact a person who has registered a contact veto: s188. It will also be an offence for a prospective adoptive parent to make unauthorised contact with a birth parent before the child has been allocated s187.

Chapter 6 The pregnancy

This chapter describes the experiences of mothers, fathers and families during the pregnancy. The chapter examines the young woman's reaction to her pregnancy as well as the reaction of family members and the father of the child.

In many cases the pregnancy resulted in the woman being sent away from the family home for the duration of the pregnancy and birth. This often involved leaving school and moving to an unfamiliar place with little emotional support from close family and friends. While some women had family support during the pregnancy and were able to remain in the family home, this chapter primarily examines the options available to those women who left the family home during this period. These options included accommodation in a maternity home, being sent to live with relatives and boarding with a family in the community. The level of professional support during this period will also be discussed.

Reaction to the pregnancy

- 6.1** Many women told the Committee about their initial reaction to the news of their pregnancy.

When I realised I was pregnant in 1952, I was afraid, as much as I was disillusioned and embarrassed.¹⁸⁴

How did I feel about it? I really did not think I was [pregnant], I suppose. I guess I was in denial for quite some time ...¹⁸⁵

- 6.2** The news of the pregnancy was made worse for some women who had become pregnant as a result of rape.

At the very young age of 16 I felt ashamed and guilty (I had been raped and of course, not believed).¹⁸⁶

- 6.3** The Committee heard that some women were shocked but happy about the pregnancy but were too afraid to express their joy because of the reaction of those around them.

I had not been ashamed of the fact of my pregnancy when I initially found out but I was given no choice but to assume shame because of the punitive response I received from everyone I informed. In actuality I was privately quite excited and publicly quite scared.¹⁸⁷

- 6.4** The reaction of family members was often hostile and unsupportive.

¹⁸⁴ Submission 22

¹⁸⁵ Witness D evidence, 17 June 1999

¹⁸⁶ Submission 36

¹⁸⁷ Submission 114

My mother was unsupportive and was fully aware that I did not wish to surrender my baby. However she insisted that if I were to keep my baby she would never accept him as her grandchild and would never speak to me again. Her rejection and lack of support weighed heavily on my mind as a frightened 16 year old.¹⁸⁸

6.5 The stigma attached to being single and pregnant resulted in some families sending the young woman away.

At that time (1969), social structures were extremely rigid and my mother feared for my future reputation, so felt it best I not return to my hometown.¹⁸⁹

In some extreme cases, women were sent interstate in order to keep the pregnancy a secret, even from family members.

Although I am a Western Australian, my son was born, adopted and now lives in NSW. I was sent to Sydney by my parents to hide the shame of my pregnancy. I was seventeen at the time.¹⁹⁰

I have three older sisters and they were not aware (of my pregnancy) until very late in my pregnancy when my mother told my older sister.¹⁹¹

6.6 Not all families reacted with hostility, and many parents of young unmarried women offered their support and advice. Diane Stebbings said that when her mother learned of her teenage pregnancy, she:

was upset (but) wanted to help me, so she took me to her gynaecologist, to a doctor she trusted.

Well, after that first visit to the doctor my parents talked to him alone, probably on the 'phone. I was not a party to these conversations. Apparently Mum and Dad wanted to keep the child in the family, and they proposed to adopt him themselves. I did not actually know this at the time. The doctor told them that was a really bad idea, that you cannot do that sort of thing...¹⁹²

6.7 Louise Greenup told the Committee that while the news of her pregnancy in 1977:

was an horrendous experience and one that shocked my family greatly ... my parents were very supportive and the only question that truly needed to be answered was "what was the right thing to do" for myself and the baby. ... The options were to adopt out my baby or to keep my baby. The latter option was one that was truly considered ...¹⁹³

188 Submission 67

189 Submission 97

190 Submission 52

191 Eagles evidence, 19 October 1998

192 Stebbings evidence, 19 October 1998

193 Submission 107

- 6.8** The news of the pregnancy was a disruption to employment or study for some women and many employers wanted to keep the pregnancy a secret. Julia Dickson was a third year student nurse in 1962 when she discovered she was pregnant.

With nowhere to turn I spoke to the Acting Matron where I was a student about my situation. She told me that these things were best kept very private and suggested that I spend the final months “away from everyone” at the Queen Victoria Hospital for Women & Babies. I was also told to seriously consider that adopting my child out would be “best for everyone” and that if I consented to adoption I could come back and finish my training with my PTS group and graduate on time.¹⁹⁴

- 6.9** In evidence to the Committee one witness explained how arrangements were made for her to leave work in Tamworth and live at a maternity home in Sydney for the duration of her pregnancy.

The people who sent me down there were very clever at organising everything. They got me leave of absence.... (My aunt) organised my leave from work. She had my boss up at the house. I worked as a telephonist on the telephone exchange and she organised all of that. When I came back she organised my job back for me ... I just walked in on a morning shift one morning, sat down and started answering the calls again, and nobody really acknowledged it – they all said “Hi, how are you going?”¹⁹⁵

- 6.10** The Committee understands that it was common for a young woman to resign from her job as soon as she discovered she was pregnant for fear that her pregnancy would be revealed to her employers and colleagues.¹⁹⁶

- 6.11** The interpretation of a young woman’s reaction to her pregnancy was often influenced by the condescending attitude towards unmarried mothers prior to the mid 1970s. In her address to adoption workers gathered in 1967 to discuss the introduction of the *Adoption of Children Act 1965*, Sister Boromeo stated that many girls reacted with such guilt and anxiety:

that their re-action can almost be labelled pathological...Cases of extreme denial patterns, conversion-hysterias and acting-out behaviour are quite common enough.¹⁹⁷

The reaction of the ‘putative’ father

- 6.12** The evidence to this inquiry showed that in many cases the ‘putative’ father¹⁹⁸ of the baby was in his teens and was either not told of the pregnancy or was unprepared to cope with it.

¹⁹⁴ Submission 39

¹⁹⁵ Witness D evidence, 17 June 1999

¹⁹⁶ Sister Borromeo, Residential care for the unmarried mother, Blackfriars course for adoption workers, 1967

¹⁹⁷ *ibid*

I had no intentions of telling him I was pregnant. He found out I was pregnant quite late in my pregnancy at about six and a half months when my eldest sister felt he should know. Even though we were going out together, he was not aware that I was pregnant.¹⁹⁹

- 6.13** The Committee heard that some men were told but were unable or unwilling to provide the young woman with the emotional and practical support she required.

I moved in with Richard, who was having a good time, until he found out I was pregnant. Then the situation changed, he probably felt his freedom being taken from him and did not want to accept responsibility, after all, he was not that sure about me, and felt he may have been pressured into a marriage, which he did not want at his young age of 20.²⁰⁰

- 6.14** The father's rejection of the young woman sometimes resulted in extreme action on the part of the young pregnant woman.

I was 17 years old, unmarried, and had no support from the father of the child. My solution was to run away to Queensland and virtually 'live off the street' till 5 months pregnant.²⁰¹

- 6.15** The Committee received some evidence from men who were supportive. Despite the good intentions of these young men, family members and professionals often treated them with disdain. Angry and resistant parents often prevented them from seeing their pregnant girlfriend. In some cases, the girl's family would threaten to call the police and have the young man charged with carnal knowledge.

So I went up with the young lady and saw her father ...the fact that his daughter was pregnant with my baby did not endear me to him at all. In fact, he got pretty angry. He ordered me from the house...The next day two detectives arrived at our doorstep and wanted to talk to me and my father, which they did. They informed me that they were arresting me, which they did. They charged me with carnal knowledge.²⁰²

- 6.16** The already difficult and distressing situation was made worse for such young men by the involvement of the police. The Committee heard that some young men were charged with carnal knowledge at the time the pregnancy was revealed to the parents of the young girl. In the case of one man writing to the inquiry, charges were laid against him for carnal knowledge in the weeks after the birth of the child.²⁰³

¹⁹⁸ Until the late 1970s the father of the baby was regularly referred to as the 'putative' father.

¹⁹⁹ Eagles evidence, 19 October 1998

²⁰⁰ Submission 72

²⁰¹ Submission 97

²⁰² Witness C evidence, 16 June 1999

²⁰³ Submission 272

- 6.17** The Committee was surprised by the number of submissions from people who married after the adoption of their first child.

The pregnancy was obviously not planned, but nor was it an absolute surprise to us. At the ripe old age of seventeen at the time I just assumed we would get married. I felt I could persuade my parents that was the way forward... There was one meeting between my parents and Diane's parents to discuss the situation. As Diane said, they were not keen that we get married at that age, although we did get married two years later ... (A)fter that we had our first child of the two girls that we kept.²⁰⁴

My partner and I married two years later, so why did I lose my son? We had three more children, all the time seeing my other children grow up without their brother and him without them.²⁰⁵

- 6.18** The Committee understands that prevailing social attitudes meant that particularly in the period prior to the 1970s, a young woman who became pregnant was considered to be 'sinful', 'easy' or 'weak'. With this in mind, it is not surprising that many young women reacted to their pregnancy with shock and fear, and sought to conceal their pregnancy. For other young women, the desire to keep the pregnancy a secret appears to have been largely the decision of her parents, relatives, her boyfriend or doctors. The Committee acknowledges that while the reaction of some men to the pregnancy was to deny responsibility, other men attempted to provide support and comfort but were thwarted by the attitudes and actions of family members, doctors, social workers, nuns and other professionals.

- 6.19** The Committee believes that many women and men suffered as a result of the attitudes of family, friends and professionals. These attitudes often contributed to the young woman's decision to have her baby adopted, and at other times left the young woman believing she had no other choice. This crucial lack of support helped to ensure that adoption was an almost pre-determined outcome for unmarried and pregnant women. Regardless of the values of the time, the reaction of some people to the news of the pregnancy was cruel and unsupportive and contributed to the suffering of many women and men.

Maternity homes

- 6.20** Many young women were sent to maternity homes for the later stages of their pregnancy, particularly in the period prior to the mid 1970s.²⁰⁶ These homes were run primarily by the churches and hospitals. Many had their origins in infants' asylums or foundling homes during the first world war, when the homes provided a shelter for the young woman and

²⁰⁴ Stebbings evidence, 19 October 1999

²⁰⁵ Submission 45

²⁰⁶ Maternity homes were variously referred to as unmarried mothers' homes, maternity hostels and hospital annexes. In this report they are referred to as maternity homes. Maternity homes are also described in chapter 1.

her baby in an attempt to combat baby-farming and the high rates of infant mortality.²⁰⁷ While there was a drop in numbers of mothers choosing to enter the homes in the interwar years in Victoria, by 1925 a new style of home began to emerge there and also in NSW.

Focusing exclusively on the woman and offering complete secrecy rather than reformation or shelter, the new, denominationally based, maternity homes tapped into a far wider clientele. Indeed, for the middle-class woman, without convenient family interstate or out of town, they became *the* place to go when pregnancy occurred.²⁰⁸

- 6.21** Many maternity homes were well established in Sydney by the middle of the 20th century and continued to operate until the mid to later 1970s when most of them closed down.

Arrangements made by parents or family doctor

- 6.22** Typically, once a young, single woman discovered she was pregnant, she was sent to a maternity home for the last five or six months of her pregnancy. The arrangements were commonly made by the girl's parents, and in other instances by another relative, the family doctor, or the family priest or minister.

I became pregnant at the age of 16 ½ years (1970) whilst still at high school. I lived in a small country town with my parents and 2 other siblings. My shame, my parents' shame and the lack of support in small country towns made this a very difficult time for my family. Luckily for me the family doctor took control and arranged for me to go to Lady Wakehurst Home in Waverley to have my baby.²⁰⁹

My mother and my doctor saw it as a haven, a refuge for me, and also a way of getting me out of the way.²¹⁰

- 6.23** In evidence to the Committee, Alison Croft from Anglicare Adoption Services confirmed that most women who came to Carramar:

were there because their families had sent them there and there was considerable distress in terms of feeling rejected by their families, together with home sickness.²¹¹

- 6.24** It was usually presumed that young women who sought to conceal their pregnancy by booking into a maternity home intended to relinquish the baby.

²⁰⁷ Dr Patricia Farrar, 'How the Print Media Constructed Adoption', 7th Annual Adoption Conference, Hobart 2000, pp.265-289

²⁰⁸ S. Swain & R. Howe, *Single Mothers and their children: disposal, punishment and survival in Australia*, Cambridge, Cambridge University Press, 1995

²⁰⁹ Submission 48

²¹⁰ Witness A evidence, 30 September 1998

²¹¹ Croft evidence, 30 September 1998

About half the unmarried mothers confined in public hospitals keep their babies, but very few girls who go to maternity shelters do. Presumably this is because the girl who intends to retain her child has the support of her family during the pregnancy and does not require accommodation. Many girls enter maternity shelters to conceal their pregnancy, but this will obviously be less important for the girl who intends to keep her child.²¹²

- 6.25** In a minority of cases, young women checked themselves into the maternity homes to conceal their pregnancy and keep it a secret from family, friends and work colleagues.

How the homes operated

- 6.26** Most of these homes provided hostel-style accommodation for unmarried women only and the average age of residents was between 18 and 21 years. Most homes gave priority to young women under the age of 21 years, and for first pregnancies. The Committee understands there was a greater need for accommodation for younger girls who were not able to remain in the family home.

- 6.27** A review conducted by the Benevolent Society in 1972 described the seven major Sydney hostels as primarily operated by religious organisations offering accommodation to a total of approximately 175 unmarried mothers at any one time. The largest homes were St Anthony's with 50 beds and Our Lady of Mercy Home with 36 beds, both run by the Catholic Church.²¹³

- 6.28** The review also found that all homes charged a fee ranging from \$17.00 per week at Carramar to \$2.10 at the Presbyterian-run Queen Victoria Hostel. All residents were required to help in the domestic work in the hostel. In most cases a roster was established for duties including cleaning, preparation of food, cooking, serving and washing up.

- 6.29** The Committee understands that as many of the hostels were run by religious organisations, the conditions and rules were often strict with obligations to attend religious observations. A representative of Anglicare Adoption Services told the Committee that some women who attended Carramar found it difficult to live with the "inevitable structure of an institution" and regular requirement of attending prayers.²¹⁴ According to the 1972 Benevolent Society review of services, enforced religious practice in the hostels varied from "some rigidity to great flexibility according to the denomination concerned".²¹⁵

An isolating and lonely experience

- 6.30** The Committee was told that in the 1950s and 1960s the atmosphere in the homes was punitive and authoritarian. For the majority of women presenting evidence to the inquiry,

²¹² E. Thompson, op.cit., 1971, p.65

²¹³ Benevolent Society, *Minutes of the Community and Social Welfare Committee*, 1972

²¹⁴ Croft evidence, 30 September 1998

²¹⁵ Benevolent Society, op.cit., 1972

the time spent in the home was an isolating and lonely experience. A number of women providing evidence were very angry about the way they were treated in the homes and believed that their treatment was harsh even by the moral standards of the time. While a few women remember being treated with kindness, most women told the Committee they were treated 'as though we were sinners' and were 'hidden away from public view'.

The idea of being in an unmarried mother's home, was supposed to be for my well-being, but in reality it was to save other people the shame and embarrassment of knowing that I was pregnant, I was in fact 'hidden away'.²¹⁶

My mother and my aunt used to say that being pregnant was the one sin that showed and they would look at each other and smile.²¹⁷

- 6.31** For other women the homes were impersonal and disorienting. A large number of women told the Committee that residents were known only by their first name to maintain their anonymity and privacy. Other women were expected to change their name to avoid confusing them with other residents.²¹⁸ In evidence to the Committee, one witness explained:

They changed my name while I was there. They did not call me Dianne...it was because there were two Diannes. So they decided we could not have Dianne 1 and Dianne 2. ...Well they said 'Pick out a name'.²¹⁹

- 6.32** For women sent to the hostels from rural areas and interstate, the experience was an especially isolating one.

I had no one to talk to during this time. I was very isolated, my family were in Adelaide... I was told not to make friends with the other girls. It was a lonely scary time.²²⁰

- 6.33** The Committee received evidence from mothers with positive experiences of the homes in the period prior to the 1980s but these witnesses also expressed reservations. Some women told the Committee that the nuns were "kind enough if you were not well...but always very sanctimonious".²²¹

- 6.34** In the archival material collected for this inquiry the Committee found many examples of this occasionally kind but commonly patronising attitude towards unmarried mothers. In a 1967 article the author was concerned that unmarried mothers were not seen as "Dead end kids' with no future". While there was a level of concern for their emotional well-being,

²¹⁶ Submission 82

²¹⁷ Witness A evidence, 30 September 1998

²¹⁸ Submission 42

²¹⁹ Witness D evidence, 20 September 1998

²²⁰ Submission 39

²²¹ Witness D evidence, 20 September 1998

this practitioner was equally as concerned about a young woman's deportment. In the same article she wrote:

it is important that the girls be encouraged to take an interest in their appearance during pregnancy – to use make-up, wear pretty smocks or maternity gowns and have frequent hair-dos. A visit from a Beauty Consultant is always appreciated by them. This attention to their appearance is something they will always remember later on when they marry ...²²²

6.35 Peoples' recollections differ greatly and practitioners may have viewed conditions in the homes from a very different perspective to mothers. The Committee acknowledges that the adverse impressions of treatment and attitude experienced in the homes may have been influenced by the mother's circumstances. A report from the Queen Victoria Hospital questioned the impression within the community at the time that hostel accommodation was a place where a "girl can be made to pay for her mistakes".

There is no punitive atmosphere at QVH, rather girls are encouraged to lead as normal a life as possible. They pay \$2.10 p.w. for maintenance...do approximately 3 hrs. light domestic work daily but in leisure hours are free to occupy themselves as they wish.²²³

6.36 As noted above, many of these homes were run by religious organisations, and the attitudes to the young women were often a reflection of the attitudes of the church. The Committee understands that while many of the individual practitioners in these homes were kind and sympathetic, they were influenced by a belief that having a child out of wedlock was sinful and immoral. The Committee understands some social workers and psychologists²²⁴ attempted to improve conditions and warn staff about their treatment of these young women.

[The] danger is the development of a certain attitude towards [unmarried mothers] which has its roots in traditionalism and in the unconscious urge for every human being to present himself or herself in a more favourable and acceptable light than others. ... [T]here is a great scope for the Church to show these girls something of the love of God.²²⁵

6.37 Until the early 1970s a common community view was that the homes were an effective way to conceal the young woman from public view as a way of keeping the pregnancy a secret. In a 1967 address to Principal Officers at the time of the introduction of the 1965 Act, Sister Boromeo told the gathering:

²²² Sister Ambrosie, The Unmarried Mother's relationship with her child, Blackfriars course for adoption workers, 1967

²²³ Queen Victoria Hospital, untitled, c.1950s

²²⁴ The Committee understands the work of Mr Wilfred Jarvis was important to the improvements in the treatment of unmarried mothers, particularly regarding the long-term effects of adoption. This is discussed further in chapter 9.

²²⁵ Queen Victoria Hospital, 'The Church and The Unmarried Mother', Presbyterian Church of Australia, c.1960s

I am sure if we asked members of the public what they saw as being the purpose of Maternity Homes, they would say: “They are places providing secrecy and concealment for unmarried mothers. They give them protection against the censures of society and perhaps, in some cases, protection from themselves.”²²⁶

6.38 On the other hand, Sister Boromeo went on to explain, representatives from the agencies which ‘sponsor’ the homes argued that the homes were primarily ‘centres for rehabilitation’ with an aim to do more than just feed, clothe and keep occupied young pregnant women. Boromeo suggested that one of the strengths of the homes was the acceptance and support the staff could provide and “a feeling of safety and a lessening of anxiety”.

6.39 The Committee was told that some women found the homes ‘a haven’, away from the prying eyes of society. According to Alison Croft, social worker with the Anglicare Adoption Agency, some had come from very sad and difficult circumstances and there was relief in being able to be there. While some women formed long-lasting friendships, Ms Croft believed:

No-one was there by choice or was really happy to be there. A lot of women were homesick, lonely and upset about their family’s reaction to their pregnancy.²²⁷

6.40 The Committee understands that the attitudes of the staff and the conditions in the homes have changed over time. There are a number of small maternity homes operating today, including accommodation provided by the Anglican Church in Sydney’s western suburbs and St Anthony’s Pregnancy Support Unit run by the Sisters of St Joseph. One mother’s experience of St Anthony’s in 1996 was that she was encouraged at all times and:

never once was any suggestion made that I should adopt my baby. I was never judged and always treated with dignity.²²⁸

Chores and work

6.41 Most women who spent time in the homes were given chores as part of their accommodation arrangements. These included washing linen, cooking and child minding, and where the residential care was attached to a hospital the chores included working on the wards.²²⁹

All the girls who lived in the hostel were required to serve meals to the ‘mothers’ in the hospital with no consideration given to our feelings/privacy. ... The hospital used the girls as cheap labour; for example I was ‘kitchen hand’. This meant assisting the cook in the hospital kitchen. I was up at just after 6.00am, was expected to lift heavy pails of milk, prepare vegetables, wash, clean etc.²³⁰

²²⁶ Sister Borromeo, op.cit., 1967

²²⁷ Anglicare evidence, 30 September 1998

²²⁸ Submission 46

²²⁹ Submission 3

²³⁰ Submission 36

6.42 Other women worked within the hospital and found the experience of assisting in the nursery a difficult one. Ellen Cochrane remembers her time at the Benevolent Society's home in the late 1960s.

This was a large ward in the basement of the hospital. The woman social worker 'looking after' the young girls there took a group of us up to the nursery and we looked at the babies, we were told there were people waiting for babies and we should hurry up with ours.²³¹

6.43 A 1969 report described the working arrangements for women residing at the Royal Hospital for Women. The young women were employed by the fund raising and printery departments of the Benevolent Society and also by the accounts department of the hospital.

This employment has not only offered remuneration, but has been a means of changing environment and experience from time to time. The independence and self-esteem which is concomitant of employment has been readily discernible.²³²

6.44 From the 1960s accommodation was provided by the Sisters of St Joseph in St Anthony's Home, Croydon. In her evidence, a representative from the Sisters of St Joseph confirmed that residents assisted with hospital food preparation, office work and sewing in return for food, accommodation and medical care.

The girls were allocated light duties, partly to keep them occupied and partly to give them a sense of independence and self-worth.²³³

6.45 The 1972 Benevolent Society review of Sydney hostels argued that the duties allotted in the hostels were not unduly arduous nor time-consuming and that adequate time was available for rest periods and free time.

All hostels require girls to do some work within the hostel and some require them to assist in activities conducted by the same organisation. This is regarded as part-payment of board.²³⁴

Access to parents, family members and the father of the baby

6.46 Many women told the inquiry they were not encouraged to speak about their pregnancy and had very little contact with family and friends. Josette Heininger told the Committee about her experiences at a maternity home in Leichhardt, Sydney:

During the time I resided at the 'home' I was not allowed contact with friends, family (except my mother and once with my father) or my brothers. I felt isolated and paranoid. No one seemed to appreciate the grief I was experiencing.²³⁵

²³¹ Submission 297

²³² Benevolent Society, *Minutes of the Community and Social Welfare Committee, 1968 to 1970*

²³³ Sisters of St Joseph evidence, 19 October 1998

²³⁴ Benevolent Society, *op.cit.*, 1968 to 1970

6.47 Similar experiences were recounted by other mothers:

I was also kept from the outside world. Visitors were screened because of secrecy.²³⁶

6.48 Several fathers said they were not permitted to visit their girlfriend while she was residing at the home. James Wade told the Committee that when his girlfriend found out she was pregnant she was placed in St Anthony's by her strict Catholic parents.

She was imprisoned there until the time that she was to give birth at St Margaret's Hospital. I was not allowed to visit or speak with her in any way.²³⁷

6.49 While other men were permitted to visit the homes, they were not encouraged to participate in decisions about the future of the baby. The Committee heard from a man who at 18 years of age was determined to marry his 17-year-old girlfriend and keep the baby. The young woman's family had made the decision to send her to Carramar for the final four months of the pregnancy. The father explained that he maintained close contact with his girlfriend and "visited regularly". He argued that his desire to keep the baby was not respected by his girlfriend's family or the staff at Carramar.

I was interviewed once by a social worker from 'Carramar', Linda wasn't present. I stated my desire for marriage and parenthood. This was glossed over. I received no advice or encouragement to pursue this plan.²³⁸

6.50 The policy at the maternity homes differed in relation to the restrictions placed on a young woman's contact with her boyfriend and other friends and family. The 1972 review of hostels found that in many homes visits by parents and relatives were encouraged but:

putative fathers are only tolerated at, for example, the Salvation Army hostels (not permitted inside) but are elsewhere accepted (Carramar, Waitara, Queen Victoria).²³⁹

6.51 At Carramar in the 1960 those fathers who were supportive of the young woman were permitted to visit, however:

Sometimes, of course, the families themselves did not want the fathers to visit and so we had to comply with their wishes.²⁴⁰

6.52 The Committee is aware that in the 1960s some professionals acknowledged the importance of contact with the father of the baby, particularly for those in need of

²³⁵ Submission 160

²³⁶ Submission 10

²³⁷ Wade evidence, 18 October 1999

²³⁸ Submission 269

²³⁹ Benevolent Society, op cit., 1968 to 1970

²⁴⁰ Witness J evidence, 20 September 1999

emotional support. It was the opinion of at least one practitioner that if women were allowed this contact during the pregnancy it helped them “sort themselves out and make a better adjustment afterwards.”²⁴¹ However, other professionals argued that young women needed to be protected from ‘these men’.

Access to school education

6.53 The Committee did not receive evidence from any mothers who continued to pursue their education while living in the homes. However, the Committee understands that at some homes, including the hostel attached to Queen Victoria Hospital, residents still at school were provided with supervised correspondence school lessons and were encouraged to return to school after the birth and complete School and Higher School Certificates. In the 1960s and 1970s, the school-aged residents of Carramar were also given the opportunity to continue their education by correspondence.²⁴²

6.54 There were a number of other activities arranged for the young women, including handicraft classes, cookery classes, games evenings and outings. In evidence to the Committee, a former Principal Officer for Carramar admitted that, in retrospect, these activities seem inappropriate to the circumstances and did not provide the young women with necessary life skills. However, the former Officer explained, the activities were designed to make the young women’s stay as much like normal home life as was possible.²⁴³

Pre-natal care and information

6.55 Many mothers living in the homes prior to the 1970s told the Committee they received little or no pre-natal instruction. Rosemary Chaney spent five months at Lady Wakehurst in 1965 and:

Never during my entire time as a patient within the hospital, was I given any classes or instructions or knowledge of the procedure of giving birth nor post natal classes either, nor to my knowledge, were any of the other girls incarcerated along with me.²⁴⁴

6.56 The Committee was told that mothers residing in St Margaret’s and St Anthony’s homes visited the hospital outpatients clinic on the basis of monthly visits until 32 weeks, fortnightly till 36 weeks and then weekly until delivery. Preparation for childbirth was given by a physiotherapist or a midwife.²⁴⁵ Pre-natal care at Carramar in the 1960s was provided by a woman doctor who gave lectures on antenatal care and what to expect about labour and post-natal care. In addition, a physiotherapist visited every week to give

²⁴¹ Sister Ambrosie, op.cit., 1967

²⁴² Anglicare evidence, 30 September 1998

²⁴³ Witness I evidence, 20 September 1999

²⁴⁴ Submission 14

²⁴⁵ Submission 261

antenatal exercises.²⁴⁶ According to a social worker report, a doctor visited the Queen Victoria hospital almost every week to treat residents and was available for phone consultations when individual problems arose.²⁴⁷

Counselling and support

6.57 The majority of single, pregnant women had some contact with or received some form of casework service from a social worker during the pregnancy. The worker may have been attached to a public hospital, a maternity home or the adoption agency with which the mother was registered. The Child Welfare Department employed a small number of social workers, also referred to as allotment officers, to conduct adoption work, but they were mainly responsible for taking consents and usually only saw the mother on two occasions: one to gain background information and the second time to take the consent. They did not provide a casework service. The responsibility of adoption professionals in the taking of consent is discussed further in chapter 8.²⁴⁸

6.58 The Committee received a range of views on the availability of counselling and information at maternity homes. The level of counselling differed depending on the era and the hostel in which a young woman was residing. According to one mother at St Anthony's in 1971 "we did not have any counselling, there were no discussion groups".²⁴⁹ Other women told the Committee that the contact with social workers was for the purpose of collecting factual information. Carol Muston told the Committee that during her stay at Carramar in 1969 she was only visited once by a counsellor.

She asked me for my medical background and the medical background and physical attributes of the baby's father.²⁵⁰

6.59 Other mothers argued that, while they received a considerable amount of counselling, it was primarily directed at the promotion of adoption. However, a past adoption worker at Carramar in the 1960s gave contrary evidence, telling the Committee that social workers conducted:

a very thorough interview and assessment and counselling for each young woman and explained adoption if that was what the young woman wanted...²⁵¹

6.60 The 1972 review of hostels found that qualified social workers were available to most homes from the related adoption agencies and that:

²⁴⁶ Witness J evidence, 20 September 1999

²⁴⁷ Queen Victoria Hospital, Social worker report, 1967

²⁴⁸ Submission 252

²⁴⁹ Witness A evidence, 30 September 1998

²⁵⁰ Submission 185

²⁵¹ Witness J, 20 September 1999

in all instances, mothers are helped irrespective of whether they plan to surrender their babies or not, or even if they plan to surrender their babies to another agency.²⁵²

6.61 According to the submission from the Royal Hospital for Women, all single pregnant women who were to deliver at the hospital were routinely referred to the social worker at their booking-in visit.

The women were given a lot of opportunity to see a social worker and to discuss the dilemma, and would often be seen (as now) at every antenatal clinic visit.²⁵³

6.62 Evidence from Anglicare suggested that all Carramar residents were seen by a social worker. The social worker would have completed a social history form and provided counselling and advice on their pregnancy. Carramar social workers conducted both weekly discussion groups and individual counselling on adoption and other options.²⁵⁴

6.63 The Sisters of St Joseph told the Committee that counselling for girls at St Anthony's and St Margaret's was provided prior to the 1965 Act by the social work department of the hospital or by social workers with the Catholic Welfare Bureau. After the commencement of the Adoption of Children Act in 1967, and the establishment of the Catholic Adoption Agency, all counselling services were provided by social workers employed with the Agency.²⁵⁵

6.64 The Committee understands that in the 1960s Dr Wilfred Jarvis provided counselling to mothers at a number of homes including Queen Victoria hostel and Pittwood. Dr Jarvis conducted intelligence tests and provided observations on a young woman's emotional stability and intellectual capacity as well as running weekly group discussions with young women. The discussions appeared to be about the conditions in the homes and the restrictions placed on the young women as much as they were about the pregnancy and their future plans.

6.65 The Committee believes that while there were differences in the counselling provided, there was a similarity in the nature and focus of that counselling across the homes, particularly in the period prior to the 1970s. The majority of evidence provided by mothers to the inquiry suggests that they did not appear to receive counselling on the decision about adoption, on revocation rights or the long-term impact of their decision.²⁵⁶ Their recollections suggest that they were more often counselled on the reasons for the pregnancy and how to modify their future behaviour. As explained in the 1972 review of hostels:

²⁵² Benevolent Society, op.cit., 1968 to 1970

²⁵³ Submission 253

²⁵⁴ Anglicare evidence, 20 September 1998

²⁵⁵ Submission 261

²⁵⁶ See chapter 8 for more information.

If girls are to respond constructively to counselling and hostel activities, they need to be motivated before becoming too lethargic because of the pregnancy and have sufficient time to resolve the emotional difficulties both underlying and caused by the pregnancy.²⁵⁷

Were women told that adoption was the only option?

6.66 Apart from concerns about the limited extent of counselling in homes, evidence to the inquiry has indicated that counsellors actively promoted adoption as the most realistic outcome for women. According to many women, there was a general assumption that if you were a resident in the maternity home, you were going to relinquish your baby. As one mother told the Committee, during counselling sessions with a social worker at Villa Maria hostel, East Maitland, she:

(R)einforced (adoption) as the only option available to me. (She made) statements such as “If you love your baby you will put him up for adoption”. “If you are a good mother you will give your baby to a married couple who themselves can’t have children.” “Every baby deserves a real family with both parents.”... “No man will marry you with a child”.²⁵⁸

6.67 In evidence at the Adoption Forum, Vivian Lindsay explained that during her time at the Sisters of Mercy Convent, Waitara she was regularly told:

“You are too young; you are not married; you are selfish if you keep the child; how will you provide for the baby; it won’t be a baby forever, you know”.²⁵⁹

6.68 The Committee understands that there was an expectation that the residents of Carramar intended to relinquish their babies. Despite this, the Committee was told that social workers at Carramar felt a professional responsibility to explore alternatives with residents and provide information on accommodation, employment and child care.²⁶⁰

6.69 In evidence a representative from the Sisters of St Joseph said it was generally assumed that those young women who resided at the St Margaret’s and St Anthony’s homes intended to have their babies adopted.

For some care givers the very fact of offering shelter and seclusion and arranging adoptions was seen as concurring with the decision of the expectant mother and/or her family.²⁶¹

²⁵⁷ Benevolent Society, op.cit., 1968 to 1970

²⁵⁸ Submission 114

²⁵⁹ Lindsay evidence, 18 October 1998

²⁶⁰ Anglicare evidence, 20 September 1998

²⁶¹ Sisters of St Joseph, 19 October 1998

- 6.70** Up until the mid 1980s, access to St Anthony's was primarily given to mothers who wished to have their babies adopted. By 1986, practices in St Anthony's had changed and single women who intended to keep their child were admitted.²⁶²
- 6.71** In their submission, the Sisters of St Joseph suggested that the policy of not having mothers who intended to keep their babies with mothers who did not was based on "the belief that one group would influence the other in their decision making".²⁶³ The submission noted that "in hindsight" it is possible that the assumption that the baby would be adopted was that of the family, and not necessarily what the young pregnant woman wanted.

Keeping the baby

- 6.72** The Committee did not receive evidence from mothers who were residents of a maternity home, and who kept the baby. The Committee understands that only a small percentage of mothers in the homes kept their babies prior to the mid 1970s, although exact figures were not made available to the Committee.
- 6.73** Family support was a critical factor for mothers who were able to keep their baby. One mother residing at St Anthony's in the early 1970s said:
- The only girls at the home that I saw keep their babies were the ones who got support from their families. I saw that as being fundamental.²⁶⁴
- 6.74** According to archival material, staff in several of the homes provided limited support and material assistance for mothers keeping their babies such as layettes, baby clothes and other equipment.²⁶⁵
- 6.75** The submission from the Sisters of St Josephs stated that during the period 1952 to 1966 residents of St Anthony's could stay at the home for six to 12 months, where they could have the baby cared for while they tried to find employment and accommodation. After the commencement in 1967 of the *Adoption of Children Act 1965* mothers could stay at St Anthony's during the 30 day revocation period. The Sisters of St Joseph were unable to ascertain how many single women were able to access these options.²⁶⁶
- 6.76** At Carramar in the 1960s the social worker would look for live-in domestic work for mothers who wished to keep their babies, but according to one past practitioner this usually failed.

²⁶² Submission 261

²⁶³ Submission 261

²⁶⁴ Witness A evidence, 30 September 1998

²⁶⁵ Queen Victoria Hospital, Report, c.1950s. The Sisters of St Joseph have archival and photographic evidence of some women who stayed on in employment at St Margaret's after their babies were born and kept their babies. Baldwin evidence, 19 October 1998

²⁶⁶ Submission 261; Baldwin evidence, 19 October 1998

I remember one young woman coming back saying that she had a domestic live-in position with her baby but the male occupant of the house was sexually harassing her.²⁶⁷

- 6.77** The Queen Victoria Hospital reported in 1967 that they had a “very useful list” of private foster mothers for situations when a young mother keeps the baby but is unable to care for the child immediately, or when the parents refuse to let her take the baby home. The report commented that while the foster arrangements provided some assistance to unmarried mothers:

an ideal situation would be the provision of a nursery or extension of the present one...to cater for the girl who needs short term accommodation for her baby ...²⁶⁸

Changes in the late 1970s

- 6.78** By the late 1970s there were decreasing numbers of women seeking accommodation in maternity homes. In 1985 Carramar relocated to a small two-storey house, as there was less demand for live-in services. From the 1970s the number of mothers in Carramar who placed their children for adoption dropped dramatically.²⁶⁹ In evidence to the Committee, past Carramar staff explained that family, social and economic changes meant that more mothers kept their babies. As a result:

our counselling procedures had more emphasis on that and more help (was) given to the young mothers if they did retain custody.²⁷⁰

- 6.79** There were similar changes at St Anthony’s home where by the mid to late 1970s the numbers of women who kept their babies were increasing. As mentioned above, this trend prompted a shift in emphasis from accommodation for mothers who wished to give up their babies for adoption to services for mothers who wished to keep their babies.

- 6.80** This trend is reflected in policy documents issued in 1979, 1984 and 1986 by St Margaret’s Hospital containing information on birth procedures and fostering arrangements for mothers residing in St Anthony’s. By the 1990s, women came to St Anthony’s for a number of reasons, including the need for a place to live while making decisions about the future and to escape pressure from family or partners about having an abortion or having the baby adopted. The Committee understands that the residents now receive extensive counselling and are assisted with continuing their education. After the birth, the young woman can return to the home with or without her baby for a period of eight weeks.

²⁶⁷ Witness J evidence, 20 September 1999

²⁶⁸ Queen Victoria Hospital , Social Worker Report, 1967

²⁶⁹ Anglicare evidence, 20 September 1998

²⁷⁰ Witness J evidence, 20 September 1999

Committee view

- 6.81** The Committee believes that the time spent in the maternity home was an unhappy time for the majority of mothers presenting evidence to this inquiry. The attitude to single mothers was, at best, kind but patronising and, at worst, punitive and cruel. Some mothers told the inquiry they were deprived of their rights including the freedom to come and go, use of their own name, and access to family, friends and the father of the unborn baby. The view of single pregnant women as inherently dependent, passive and lacking in self-esteem resulted in many professionals treating these women as 'second class citizens'. For instance, participation in tasks such as washing linen and food preparation and attending beauty treatment so as to improve 'independence and self-esteem' is indicative of the stereotypical attitudes towards unmarried mothers that governed practices in the homes prior to the 1970s. The attitudes of the churches running these homes that a child out of wedlock was sinful and immoral also had a significant influence on policy and practice.
- 6.82** The Committee acknowledges that these homes provided accommodation to young women who otherwise might have been destitute as a result of being asked to leave the family home. There was an obvious need for accommodation options, particularly for younger pregnant women not in employment. Many of the professionals involved have since acknowledged that "no-one was there by choice or was really happy to be there"²⁷¹ and that in retrospect they were operating on the wishes of the parents of the young woman and not necessarily the woman herself. However not all practitioners were punitive in their treatment of unmarried mothers, and several of them attempted to improve attitudes and conditions in the homes.
- 6.83** For women sent to a maternity home it was almost inevitable that adoption was the outcome. There is considerable evidence from past practitioners and in archival records that professionals, family members and in many cases the young pregnant woman believed adoption was the only option. Prior to the 1970s there appears to have been very little counselling on alternatives to adoption and the potential long-term effect of adoption. There is also evidence to suggest that some counsellors actively promoted adoption as the only option available to women in homes. The Committee believes that this was inappropriate to the needs of these young women and in certain individual cases was in violation of the professional codes of practice. The responsibility of adoption professionals to provide information about alternatives is discussed in chapter 8.

Other accommodation options

- 6.84** This section looks at the other accommodation options for young women not able or willing to stay in the family home. These include being sent to live with relatives and friends and 'live-in' accommodation with families in the community. A few mothers who gave evidence remained with their own families or lived independently.

²⁷¹ Croft evidence, 30 September 1998

Living with relatives or friends

- 6.85** A number of submissions to this inquiry came from women who were sent away to live with relatives or family friends for the duration of the pregnancy, many of them interstate. Ms Helen Caceres, Co-ordinator of the Association Representing Mothers Separated from their children by adoption (ARMS), Western Australia, told the Committee of her experiences.

I was 17 years old in 1966 when I discovered I was pregnant...(My mother) arranged for me to go to Newcastle in N.S.W. to stay with a distant aunt and have the baby there and have it adopted. I arrived at my aunt's place at about five months pregnant.²⁷²

- 6.86** For young women in rural and regional areas, the news of the pregnancy was compounded by the intimate nature of smaller communities and resulted in them being sent away.

My story goes back to late 1959, I was then 22 years old and lived in a country town ... where needless to say everyone knew everyone and their business. When I discovered I was pregnant a mild form of panic set in ... I did what many other girls had done, I left my home town and went into hiding with relatives in another country town hundreds of miles away ...²⁷³

'Live-in' accommodation

- 6.87** Some young women were sent, or chose, to work and live in the home of a married couple with children. The young woman would perform child care and domestic duties in return for accommodation and meals. These arrangements were generally made by a general practitioner or a social worker and were often with families known to these professionals.

- 6.88** Ms Cheryl McNeil told the Committee that her mother took her to Women's Hospital Crown Street when she discovered she was five months pregnant:

where we were introduced to a social worker. From there on I was given a choice of whether I wanted to spend the rest of my pregnancy in a Home, or out in the community. ...I chose to go out into the community and work in the home of a divorcee woman with three children. When I look back, wow, she had a really good deal. For about \$10 a week, I think it was, accommodation and food I looked after her children ... and I did some office work and cleaned her home.²⁷⁴

- 6.89** Many young women were sent away from their home town by parents eager to keep the pregnancy a secret. This often left the young woman feeling lonely and isolated.

At 17 years old from a country town, sent to Sydney when I was pregnant. I had no family or friends in Sydney. I was placed in a family home to care for their home and 2 children. I had no support as in what was happening to me or what

²⁷² Submission 256

²⁷³ Submission 21

²⁷⁴ McNeil evidence, 27 August 1998

to expect. All I can remember is I was constantly frightened, due to being left in isolation.²⁷⁵

6.90 In evidence to the Committee, Dr Edith Weisberg explained her experience of taking single mothers into her home while they were pregnant.

My experience was that I had four young girls over a period. They usually stayed with me for about two to three months from about six months of pregnancy... All of them were in the same situation, that their families were horrified when they found out that they were pregnant and felt that the shame of it all was more than they could cope with. The families actually told them to go away and to come back after the child was born.²⁷⁶

6.91 Some women felt they were exploited:

I was isolated out in the community where I was cheap labour for a mother with three children.²⁷⁷

6.92 Dr Weisberg commented that:

Looking back on it now, I think it was the most shocking exploitation and I am really ashamed of my part in it ... But it was the accepted practice at the time and a number of my friends also had these girls. We were all working and we needed help with our children and they worked as mothers' help and did light housework, but I still think it was exploitation.²⁷⁸

6.93 The Committee understands that a maternity home would sometimes make arrangements for a young woman when there were no vacancies at the home. In these cases the homes would administer and monitor the "live-in" positions. A report by the Queen Victoria Hospital explains that every family was required to satisfy them that they had:

the right attitude towards the unmarried mother, that (they) will be understanding and sympathetic without condescension. If there is evidence that this requirement is not being met, that person's service is terminated.²⁷⁹

6.94 Despite this there appears to have been little or no monitoring of the majority of households in which the young women were placed. The Committee acknowledges that a failure to monitor the condition of the homes and the employment arrangements inevitably resulted in the exploitation of some young women.

6.95 As with the maternity homes, pre-natal care and counselling received by those mothers in 'live in' accommodation appears to have varied considerably. Submissions to the inquiry

²⁷⁵ Submission 53

²⁷⁶ Weisberg evidence, 25 October 1999

²⁷⁷ Submission 125

²⁷⁸ Weisberg evidence, 25 October 1999

²⁷⁹ Queen Victoria Hospital, untitled, c.1950s

indicated that access to social workers during the pregnancy was limited, particularly prior to the 1970s. Women reported that they received only basic medical care and counselling or emotional support.²⁸⁰

6.96 As with maternity homes, there was an expectation that adoption would be the likely outcome for women in 'live in' accommodation and without family support. This assumption was summed up by Dr Weisberg:

There was no question for these women but that they would have an adoption because they had no means of support.²⁸¹

Living with the family or independently

6.97 The Committee received a limited number of submissions from mothers who remained in the family home or lived independently. While some of these mothers were provided with support, many others were not. One father, Cameron Horn, described the experiences of his girlfriend who remained in the family home throughout her pregnancy.

Perhaps the problem was that my girlfriend was locked in her room from February 7 to May 12 1980 ... at seven months' pregnant she and her mother were thrown around their kitchen by her father as they tried to stop him coming at me with deadly intent as I tried to get out of the house.²⁸²

6.98 The Committee understands that some women living independently had access to social workers and counselling services. One mother said that during the last four months of her pregnancy in 1967 she was in constant contact with a social worker at Royal North Shore Hospital. As in the maternity homes, adoption was presented to this young woman as the only option.

This woman held my hand and never stopped telling me how she was my 'only friend' at that particular time, and that she knew what was best for my 'baby'. The only option she ever offered me was adoption ...²⁸³

6.99 For other women, the issue of adoption never came up in discussions with social workers and others during pre-natal check ups. Barbara Hardy told the Committee that she was able to stay in the family home for her pregnancy and during the regular visits to Nepean Hospital for pre-natal care:

never once did anyone discuss the subject of adoption.²⁸⁴

²⁸⁰ Submission 52; Submission 97

²⁸¹ Weisberg evidence, 25 October 1999

²⁸² Horn evidence, 18 October 1999

²⁸³ Submission 184

²⁸⁴ Submission 37

Conclusion

- 6.100** The information provided to the Committee suggests that the level of support provided to unmarried pregnant women varied greatly and depended on when they were pregnant, and where they spent the last months of the pregnancy.
- 6.101** The reaction of the young woman and her family and friends to the pregnancy in the period up to the 1970s reflected the attitudes at the time. The wishes of family members, doctors and others to conceal the pregnancy meant that many young women were sent away from the family home and into maternity homes or “live-in” accommodation. The secrecy surrounding the pregnancy created many problems for the young woman. In particular, many young women were isolated and lonely and treated with contempt by some adoption professionals.
- 6.102** The Committee received conflicting evidence on the level and nature of counselling prior to the birth of the baby. While some mothers told the Committee that they never saw a social worker before going to hospital, other mothers suggested that they saw social workers who were interested only in convincing them to relinquish their child for adoption. While mothers accommodated in a maternity home had access to social workers, some counselling appears to have been directed towards discovering the reasons for the pregnancy, and access to adoption advice for young women in ‘live-in’ accommodation and those living with relatives was usually limited. Live-in accommodation was not closely monitored and was an arrangement open to exploitation.
- 6.103** These practices persisted into the 1970s when changing attitudes to single parents led to changes to practices in maternity homes. By the 1980s adoption services had begun to provide clear information about alternatives and comprehensive counselling to people contemplating adoption.

Chapter 7 Birth

This chapter considers past adoption practices relating to the birth of the baby, and the days spent in hospital after delivery. The chapter reviews the evidence on the treatment of unmarried mothers during delivery, and how this may have differed from the treatment of married women, particularly in the period prior to the mid 1970s.²⁸⁵ It describes the use of a sheet or pillow to shield the view of the baby during delivery, the information provided to mothers regarding the gender and condition of the baby, and access to the baby in the days after the birth. The administration of medication to unmarried mothers, the medical treatment of mothers and babies during their stay in hospital and the access of fathers during and after delivery are also considered.

The obstetric treatment of married and unmarried women

- 7.1** There have been a number of significant changes to obstetric and midwifery practices in the period under review for this inquiry. In particular, attitudes to childbirth in the 1950s and 1960s were marked by failure to acknowledge parental rights. Fathers were rarely allowed into the delivery room to support women during labour until the late 1960s. This section looks briefly at whether there was a difference in the treatment of unmarried and married women, the implications of marking an unmarried mother's chart 'baby for adoption' and the difference in treatment of public and private patients.

Did unmarried women receive a different standard of care?

- 7.2** One of the concerns raised by mothers during this inquiry was that unmarried mothers considering adoption were treated differently to married women at all stages of pregnancy and birth. Toni Mustchin told the Committee that during her pre-natal check ups:

There was a definite division between the married and unmarried patients, the married ones were given preferential treatment over the married. The married patients were examined by qualified doctors, the unmarrieds scored the interns and the students.²⁸⁶

- 7.3** One mother told the Committee that during her labour hospital staff were not the "slightest bit compassionate" and that unmarried mothers in general were:

treated like second class citizens, disgraceful people, and unworthy of being in their hospital. At all times other patients came before the three girls in the side room.²⁸⁷

²⁸⁵ This chapter deals primarily with the medical and nursing treatment of unmarried mothers. For information on the role and responsibility of social workers see Chapter 8.

²⁸⁶ Submission 97

²⁸⁷ Submission 186

- 7.4** The Committee understands that at some hospitals unmarried mothers were placed in a different ward to married women and may have been treated differently as a result of this separation.

Because I was coming from St Anthony's I was in a whole ward full of people who were adopting. It is probably hard for me to compare from that experience. ... Everyone knew if you were in that ward you were going to adopt, so they did not have to treat you in the same way that they would treat other mothers.²⁸⁸

- 7.5** At other hospitals, there was no such segregation and single mothers were placed in wards with married women. In some cases, compassionate staff indicated their awareness of discriminatory attitudes: some women were given wedding rings to wear by the hospital staff²⁸⁹ and others were referred to as if they were married.

The stay in hospital, in a large public patient's room, full of married women was incredibly distressing. I had the title of "Mrs Hardy" attached to my bed ...²⁹⁰

- 7.6** Some mothers remember being left alone for long periods during labour, and being treated with contempt.

The attitude of the two Sisters-in-charge ... during the birth (no doctor attended) was very unsympathetic, and I clearly recall them telling me to 'shut-up' when I started to cry out in pain.²⁹¹

I was left to cope alone for most of the labour and when the staff were in attendance, I was treated with hostility and blatant bias instead of receiving the care and compassion that a woman would normally receive during the birth of a child. The staff made no attempt to hide their disapproval of unmarried mothers.²⁹²

- 7.7** The Post Adoption Resource Centre suggested that while the treatment of unmarried women might have differed from hospital to hospital:

many women felt that they were given 'second class' service in the hospital, when comparing their own treatment to that of married women on the same ward.²⁹³

- 7.8** According to practitioners who gave evidence, there was no formal difference in the treatment of married and unmarried mothers. The NSW Midwives Association said:

²⁸⁸ Witness A evidence, 30 September 2000

²⁸⁹ Submission 14

²⁹⁰ Submission 37

²⁹¹ Submission 37

²⁹² Submission 122

²⁹³ Submission 244

there was never any differences in the management of pregnancy, labour and puerperium for single or married women, other than minor changes.²⁹⁴

7.9 Other practitioners such as the Medical Superintendent at the Women's Hospital Crown Street between 1968 and 1980, Dr Tischler believed that in some respects single women considering adoption at Crown Street were treated better than married women.

For example, girls from the country or with no relatives in Sydney were housed in a hostel-type accommodation on the premises, where they had a large degree of freedom and received excellent individualised antenatal care, thus avoiding the crowd and long waiting times in the Outpatient Antenatal Clinics.²⁹⁵

7.10 A representative from the Sisters of St Joseph explained that:

(past practitioners) tell me that the single mother was given preferential care in labour. Student midwives as well as the nursing sisters would stay with her during labour, even when they were meant to be off duty because of her youth and her situation. Every effort was made to minimise scarring, particularly for the single mother.²⁹⁶

7.11 Dr Smyth from the NSW Department of Health told the Committee that birth practices in the 1950s and 1960s were very different from today for all women. For instance, it was routine practice to separate the baby from the mother, regardless of whether or not she was married. It was common practice for the baby to be taken to the nursery immediately after the birth. Access to the baby was only allowed at set times, usually dictated by feeding regimes.

7.12 In a 1989 review of maternity services in NSW the authors noted that prior to the development of maternity services in the 1970s there was little emphasis on childbirth as a "normal event". Prior to this, birth had been viewed as a medical procedure, controlled and directed by the medical professions. The review reported that by the late 1970s:

more flexible labour ward practices have been introduced offering greater choice in birthing positions, encouragement of ambulation and non-medicated pain relief in labour, presence of support persons during labour and birth and postnatal rooming-in.²⁹⁷

Marking an unmarried mother's medical chart

7.13 In the majority of NSW hospitals in the 1950s and 1960s the pre-natal clinic card of women who were considering adoption was marked with one of the following codes:

- BFA (baby for adoption)

²⁹⁴ NSW Midwives Association, Correspondence, 31 July 2000

²⁹⁵ E. Tischler, Correspondence, 14 March, 2000

²⁹⁶ Sisters of St Joseph evidence, 19 October 1998

²⁹⁷ R. Shearman, *Maternity Services in New South Wales, Final Report*, NSW Department of Health, 1989

- BNFA (baby not for adoption)
- MBFA (married and baby for adoption).

7.14 The practice changed in most NSW hospitals in the late 1960s and early 1970s to record:²⁹⁸

- UB+ (unmarried keeping baby)
- UB- (unmarried baby for adoption)
- MB- (married baby for adoption).

7.15 Many mothers believe that the marking of the chart in this way significantly altered the care they received.²⁹⁹ At the adoption forum for this inquiry, several women told of their experiences of having their charts marked with such a code to signify 'baby for adoption'. In most cases these women were unaware that their charts had been marked until many years later when they were given access to their medical records. Wendy Jacobs explained the circumstances of the birth of her first child at Queen Victoria Hospital in 1972 where she was in a ward with several mothers who had their babies brought to them.

My baby was not brought to me and I had no idea why ... Twenty years later I got copies of my hospital records ... The words 'baby for adoption' are underlined in red ... I have also seen records belonging to another mother who had her baby in Queen Victoria Hospital in 1966. 'Babe for adoption' is written in red in her records too. The only reason I can think of for making these entries in red is to alert the hospital staff to the fact that these mothers and babies required special treatment.³⁰⁰

7.16 Ann Jukes had her son at the Women's Hospital Crown Street in the early 1970s.

I was labelled UB minor, as that was the system in those days, all single mothers were labelled UB minor, and I was put on the conveyor belt for single mothers.³⁰¹

7.17 The Committee understands that the marking of a mother's chart in this way did have an impact on some elements of her treatment. Master Greenwood explained in his judgment in the case *W v State of NSW* that the marking was:

a guide only and could be changed if there was a change of mind by the mother. The marking would affect the procedures surrounding the birth in three ways. First, as to the contact the mother would have with the child. Secondly, as to

²⁹⁸ According to the NSW Midwives Association the change was brought about under the orders of several obstetricians at the State health pre-natal clinics in the Liverpool and Fairfield areas. The stamp was placed on the card after a woman was interviewed by a social worker.

²⁹⁹ Many women told the Committee the marking of the chart meant that they were prevented from seeing the baby and that this practice was unethical. See section below for more information.

³⁰⁰ Jacobs evidence, 18 October 1999

³⁰¹ Jukes evidence, 18 October 1999; Submission 266

accommodation of the mother and child after the birth. Finally as to the medication that would be administered to the mother.³⁰²

7.18 A former midwife at St Margaret's Hospital explained that the marking of the chart in this way was important to ensure that the unmarried mother received the appropriate care:

and in the outpatients department she would be directed to a clinic held specially for these mothers, so they would not run the risk of meeting someone who knew them.³⁰³

7.19 Organisations such as the NSW Midwives Association argued that the marking of charts did not affect the status of the woman and was only a guide for treatment during delivery, when the mother usually did not see the baby, who was moved to the nursery as soon as possible.³⁰⁴

Treatment of public and private patients

7.20 Several women believed they were not admitted as private patients, despite having private insurance, because they were unmarried. Witness B was a 22 year old teacher in 1971 and when she discovered she was pregnant she was seen by a social worker at Wollongong Hospital.

As a teacher I had private health insurance. (The social worker) was really quite insistent that I go into a public ward, where girls like me go—she used those terms—because that is where I would feel comfortable. I asked her about antenatal classes and she advised me not to go because they were for married woman. She was quite insistent that I not use my private health insurance. That was the only time that I stuck to my guns and I said, "Well, I am. I've got it, I've got my own doctor." I had arranged that already and I said I was going to use my private health insurance and go into an intermediate ward. She was not very happy with me.³⁰⁵

7.21 For some women, the major issue about their treatment as public patients was that medical students attended the delivery of their babies. In many cases, these women were not consulted or asked for permission for this to occur. Cheryl McNeil recounted her experience at the Women's Hospital Crown Street in 1969.

I have some recollection that I was just about to give birth and there was a yell at the door and, next thing, the room was full of these male doctors witnessing me giving birth.³⁰⁶

³⁰² Submission 290

³⁰³ Witness K evidence, 20 September 1999

³⁰⁴ NSW Midwives Association, Correspondence, 31 July 2000

³⁰⁵ Witness B evidence, 30 September 1998

³⁰⁶ McNeil evidence, 27 August 1998

7.22 While Ms McNeil remembered the kindness of a student nurse during the delivery “holding my hand”, other women told the Committee that the treatment by some student doctors and nurses was cruel and discriminatory.

During the delivery and before, a Dr. (sic) was showing a student Dr. what to do. ... [After the birth] the Dr. in charge was showing the student Dr. how to stitch me up. I found the stitching very painful and I moaned. The Dr. told me to shut up and keep still. I apologised to him and tried to be good in case they mistreated my baby.³⁰⁷

7.23 According to Dr Siedlecky all public patients who came to Crown Street hospital in the early 1950s were “used as training material”. Dr Siedlecky explained that all public patients were seen in the outpatients clinic by one of the specialists or one of the other doctors running the clinic, and by students.

When they came into the labour ward, the same thing would apply. Usually one or two students would be allotted to a patient and that woman would be confined by that student or by a midwife student under the supervision of the midwife sisters.³⁰⁸

7.24 Dr Hinde, clinical superintendent of King George V Hospital in the 1960s, told the Committee that there was no special policy in the hospital on allocating relinquishing mothers to any particular group or type of care. Mothers were admitted either as public or private patients and were treated according to the usual practice relative to their classification. The delivery of babies for all public patients, including unmarried and married mothers, was attended by a student doctor or midwife supervised by a trained midwife, and honorary medical staff were called in only for complex and complicated deliveries.³⁰⁹

7.25 According to Dr Hinde there was no policy at King George V Hospital allowing students to attend the labour of single women although it was a requirement of a student doctor’s training in the 1950s to witness a certain number of deliveries. With regard to the negative comments made by some student doctors, Dr Hinde said:

... it would not come to me as a great surprise because it reflected community attitudes towards the single woman having a baby at that stage. I have no personal recollection, but if somebody had said that they felt that they were treated with disdain in that way in the 1950s and perhaps into the early 1960s, yes, I think it is quite possible.³¹⁰

7.26 Dr Siedlecky also argued that while unmarried mothers were treated with kindness by some student doctors and nurses, judgments were also made.

³⁰⁷ Submission 155

³⁰⁸ Siedlecky evidence, 25 October 1999

³⁰⁹ Hinde evidence, 25 October 1999

³¹⁰ Hinde evidence, 25 October 1999

The labour ward nurses were kind to them and certainly the students were, but there was still that general judgmental and punitive attitude that these women were very lucky that someone was going to do this for them.³¹¹

Committee view

- 7.27** The Committee believes that while the obstetric care of married and unmarried women was generally similar, the negative stereotype of unmarried mothers at this time may have affected the level of care received by some single women. In particular, the Committee believes that while the marking of the chart 'baby for adoption' was designed as a notation to staff on the status of the patient, evidence to this inquiry suggests that some women were treated inappropriately as a result of this marking.
- 7.28** Instances where a woman was refused treatment as a private patient because she was unmarried, or where a woman was discouraged from using private health care, were clearly discriminatory. It is beyond the scope of this inquiry to investigate individual cases, but the Committee believes that, in general terms, the discouragement or refusal to allow a woman to use private health insurance was unethical.
- 7.29** The Committee accepts that it was common for all public patients to be seen by student doctors, and that permission was often not obtained from these women. The Committee was not able to ascertain conclusively whether unmarried public patients were treated differently from married public patients on a systematic basis. Evidence to this inquiry suggests that while many professionals treated unmarried mothers with kindness, some doctors, nurses and students treated unmarried mothers with disdain. This treatment may have reflected prevailing attitudes, however the ethical obligations of health care professionals required them to treat patients to the best of their ability regardless of their personal beliefs. The Committee believes that failure to do so would constitute unethical behaviour contrary to professional codes of conduct maintained at the time.

Access to the baby at and after delivery

- 7.30** Many women providing evidence to this inquiry were prevented from having access to their babies during and after labour. As explained above, the marking of a woman's chart 'baby for adoption' was intended as a guide to hospital staff on her treatment, including restricting access to the baby.

The experience of mothers

- 7.31** Origins representative Dian Wellfare explained the various methods used to prevent contact, including:

placing a sheet on the mother's chest or at her face, holding a sheet up to obstruct her view, turning lights down or off, using blindfolds, turning the mother's head away, standing in her way of vision, rushing the baby out of the labour room

³¹¹ Siedlecky evidence, 25 October 1999

immediately upon birth, using heavy sedation during labour, holding the mother's shoulders down to prevent her from lifting herself up, pushing the mother back down if she sat up, and shackling the mother to the bedhead ...³¹²

7.32 Many mothers were not told why they could not see their baby and this contributed to their distress.

I was pushed down and a pillow was shoved in front of my face. I had no idea why. I thought it must have been because I had given birth to some kind of freakish monstrosity that they didn't think I could bare (sic) to look at ... I didn't know that the pillow in front of your face was a common hospital policy to prevent mothers from bonding with their babies.³¹³

7.33 Women were given limited information about the well-being or gender of their child and were often prevented from finding out more despite their requests. Witness A told the Committee about the delivery of her twins in 1971. It had been a difficult delivery and after the birth:

I asked were they all right and were they boys or girls, but beyond that no-one would give me any information. I wanted to know whether they were identical twins or whatever. No-one would ever tell me and I only found that out in the past year or so.³¹⁴

7.34 Many women told the Committee that despite repeated requests, they were physically stopped from seeing their child or told they could only have access to the baby once the consent form had been signed. The impact of this practice on the consent is discussed in chapter 8.

7.35 The Committee understands there were long-term consequences from not allowing women to see or hold their baby in the days after the birth. Many women said they would have coped better with the adoption decision, had they been allowed to see or hold the baby.

(H)ow much better I would have felt about this decision had I been allowed to see him freely (without arguments) and been treated differently and as though the decision was mine to make and would be respected whatever I decided.³¹⁵

7.36 According to the Post Adoption Resource Centre the single factor causing the greatest distress to mothers was being denied the opportunity to see their child.³¹⁶

³¹² Origins evidence, 2 September 1998

³¹³ Submission 8

³¹⁴ Witness A evidence, 30 September 1998

³¹⁵ Submission 87

³¹⁶ Submission 244

The rationale

7.37 The practice of shielding the mother's view of the baby at delivery and denial of access to the baby in the days after birth was common in most - although not all - NSW hospitals from the 1950s until the 1970s. The practice was intended to prevent maternal bonding and make it easier for a woman to relinquish her baby. As explained by Anglicare:

In the 1960 era, there was a belief that a mother would cope better and "get on with her life" if she did not see her baby. This led to the practice of removing the baby immediately after birth or of transferring the mother to a convalescent unit.³¹⁷

7.38 Dr Tischler explained that this practice was not generally viewed as inappropriate.

This practice was initiated by the nursing staff and it was not felt at the time that it was unethical or illegal.³¹⁸

7.39 According to the Australian Association of Social Workers, (AASW), some unmarried mothers in the 1950s and 1960s believed that seeing the baby would make relinquishment more difficult and often asked not to be told the sex of the child so they could remain emotionally distant.³¹⁹

7.40 The Committee was told there were similarities between the treatment of mothers experiencing a stillbirth and the post-birth practices for unmarried mothers. As with a stillbirth, the mother was not encouraged to see or hold the baby, and did not receive any tangible memories such as photographs. Dr Stefania Siedlecky said that in the 1950s and 1960s unmarried mothers were:

... asked to treat their babies as though they had been stillborn. This is not my experience but I know they were virtually told to regard it as a death.³²⁰

Professional disagreement about the practice

7.41 Before the 1950s, it was common practice to allow mothers to care for and often breastfeed their babies prior to the adoption. For example both St Anthony's and Bethesda maternity homes encouraged mothers to breastfeed and care for their children for several months before relinquishing the child for adoption.³²¹

7.42 However the NSW Midwives Association said:

³¹⁷ Submission 247

³¹⁸ E. Tischler, Correspondence, 14 March 2000

³¹⁹ Submission 252

³²⁰ Siedlecky evidence, 25 October 1999

³²¹ McHutchinson evidence, 25 October 1999

... the practice of adopting mothers breast feeding their infants for several days ceased in the early 1950's, as the mothers became so distressed.³²²

7.43 While limited access was common in the 1950s and 1960s, some nursing and social work staff did allow unmarried mothers to see and hold their babies. One mother explained that during her time at St Margaret's Hospital in 1962, the sister in charge would allow the unmarried mothers who had come across from St Anthony's to have the baby with them after birth.

(The babies) were brought in with all the other babies for their feeds and everything, only we bottle fed them and the other mothers there all appeared to breast feed. We had our babies.³²³

7.44 While many practitioners believed at the time that the practice of denying access to the child was appropriate,³²⁴ there were some dissenting voices on the validity of the practice as early as the mid 1960s. A 1963 article warned:

To many women, the opportunity to see and handle the infant represents a logical culmination of a process that started long before the birth of the baby. To deny a women, even a teenager, this right if she so desires is unnecessarily cruel.³²⁵

7.45 There was often resistance amongst the staff in the hospitals despite requests from some social workers to stop the practice, as explained by a former worker at Carramar.

(T)he staff of the hostel did not only explain but discussed it with the young mothers and the matron would constantly go to the hospital and try to persuade the maternity staff to allow the young mothers to see their babies and then she would come back and talk to the young mothers about this. We did finally make a breakthrough fairly early in the sixties.³²⁶

7.46 In 1965, Mary Lewis, a social worker with the Catholic Family Welfare Bureau, gave a stern warning about the rights of the unmarried mother to see her child.

Many Agencies in this country have punitive, illegal and harmful rules regarding the unmarried mother's inalienable right to physical contact with her child, when she has decided on adoption.

Some Agencies refuse to allow the unmarried mother to see her child, nor do they tell her the child's sex. While this may be done from the best motives, these misguided people should look more carefully into the situation.³²⁷

³²² NSW Midwives Association, Correspondence, July 31 2000

³²³ Witness D evidence, 17 June 1999

³²⁴ The vast majority of past practitioners today acknowledge that the practice was inappropriate.

³²⁵ Morris A. Wessel, 'The unmarried mother: A social work – medical responsibility', *Social Work*, Vol. 8, No.1, January 1963

³²⁶ Witness J evidence, 20 September 1999

³²⁷ M. Lewis, op.cit., 1965

7.47 By the late 1960s the practice was increasingly challenged. In 1968, the Benevolent Society stated firmly that the practice was no longer allowed at a number of Sydney hospitals:

The girls should be aware that they are able to see their baby even if it is to be adopted, provided they are accompanied by a Social Worker to the nursery. This is the current practice at the Crown Street Women's Hospital and Hornsby District Hospital. Our Lady of Mercy Home at Waitara even allows the unmarried mother to bring the baby home from hospital and place it in the nursery family unit herself.³²⁸

7.48 The inappropriateness of disallowing access was further emphasised in the AASW's *Adoption Manual* in 1971. The Manual argued firmly in favour of the rights of natural parents prior to relinquishment.

Before relinquishment of parental rights, the natural parents should have perfect freedom as to access to their child and it would be morally and ethically indefensible to refuse an unmarried mother opportunity to see, nurse or nurture her child if she so chooses. Parental rights should never be subjugated to hospital or institution routine.³²⁹

7.49 Despite these warnings access to the baby continued to be restricted. In a 1972 letter to the ACT Unmarried Mothers Committee, a social worker from one Sydney maternity hostel explained the procedure in the attached hospital:

The girls do not have anything to do with their babies if they are for adoption, but if they wish, they can be taken to see their babies in the Nursery.³³⁰

The role of the Health Commission in changing the practice

7.50 By the late 1970s the practice of restricting access had been completely discredited. In 1976 the Standing Committee on Adoption raised concerns with the Department of Health about the practice. One of the concerns raised by the Standing Committee was the:

unwillingness on the part of hospital personnel to grant the same rights of information and contact with their infants to women who are considering surrendering their infants for adoption as are accorded other women.³³¹

7.51 In response in 1979, the Health Commission issued a draft policy paper on adoption stating that:

³²⁸ Minutes of the Board of Directors, Benevolent Society Archives, State Library, 1968

³²⁹ Australian Association of Social Workers, NSW Branch, *Manual of Adoption Practice in New South Wales*, 1971, p.4

³³⁰ Private correspondence to ACTUM Committee, 24 May 1972, p.2

³³¹ NSW Health Commission, op.cit., 1982, p.1

a single mother whatever her age is the sole legal guardian of her child and remains so until a consent to adoption is signed. She therefore has the rights of access to her child and cannot legally be denied this.³³²

7.52 In the period between 1979 and 1982, hospitals and others providing services to unmarried mothers were given the opportunity to respond to the Commission's draft policy statement and were urged to develop their own policies on adoption. Many hospitals responded favourably to the policy statement, and concurred with the views presented by the Commission. The Child Development Unit at a Newcastle hospital wrote:

The comments in the document are very much in line with my own experience of restrictive practices current in hospitals until very recent times, and perhaps still current in some centres. Clearly the mother considering relinquishing her child has a number of rights which have not always been granted to her in the past and which this document is an attempt to redress.³³³

However, there was some resistance to the suggested changes from a number of hospitals and other agencies and individuals. For example, a doctor at Maclean District Hospital disagreed that the mother should have continued contact with the baby once the adoption papers were signed.³³⁴ Other hospitals felt the policy documents should make a provision for advice to the mother that "viewing the child may not be in her best interest".³³⁵

7.53 The period between the release of the draft document and the formation of policy was said to be a period of extensive consultation. However, the Deputy Director General, NSW Health, Dr Smyth said:

I would have to agree that the period of time from 1979 to 1982, was far too long and it was certainly a very protracted process.

In agreeing that it was far too long, I would also emphasise that the actual distribution of that draft policy statement in 1979 led to changes in hospital practice.³³⁶

7.54 The Committee is aware from reviewing the departmental files relating to the policy that the hospitals and professional bodies consulted on the policy were requested to provide their feedback by the end of January 1979 and the deadline was generally adhered to. As Dr Smyth told the Committee the development of formal policy took "far too long". While the draft policy document may have influenced adoption practices in some hospitals, the formal policy should have been implemented sooner than 1982, especially given stated concerns that illegal and inappropriate practices were occurring in NSW public hospitals.

³³² *ibid*, Appendix 2

³³³ Child Development Unit, untitled letter, Newcastle, 1979

³³⁴ Maclean District Hospital, untitled letter, 1979

³³⁵ Dangar Hospital, Singleton, untitled letter, 1979

³³⁶ Smyth evidence, 27 August 1998

7.55 The Committee believes that the Health Commission should have acted much earlier than 1979 not only with regard to the access of unmarried mothers considering adoption to the baby, but also about other practices. According to the social worker in charge at the Women's Hospital Crown Street there was a lack of hospital policy on 'good patient care' for unmarried mothers. In the December 1968 edition of *Hospital Administration*, Ms Roberts said in relation to unmarried mothers:

the (hospital) administrator should have formulated in his hospital broad lines of policy about the care of these patients, and he has the responsibility to see that these are known to all staff and that they are carried out in the spirit as well as the letter of the law.³³⁷

7.56 Dr Smyth told the Committee that neither the Hospitals Commission (1929-1972) nor the Health Commission (1972-1982) had the statutory power to 'direct or control' public hospitals. He argued that this power was not gained until the *Area Health Services Act* in 1986 which introduced a power for the Minister to direct and control activities of area health services, including hospitals. Prior to this time:

the actual operation of public hospitals were a matter for those public hospitals and their boards. The Hospitals Commission was primarily the funder of the hospital.³³⁸

7.57 Dr Smyth implied that the Commissions did not have the power to enforce a policy on adoption before 1986. Despite this, both the Hospital Commission and the Health Commission attempted to influence adoption practices in public hospitals prior to 1986. For example, before the introduction of the *Adoption of Children Act 1965*, the Hospitals Commission issued a circular to hospital authorities to ensure appropriate written consent from the Director of the Child Welfare Department was obtained before a child was relinquished for adoption.³³⁹ Dr Smyth's statement is also contradicted by the preamble to its own adoption policy which states that "the health service has an important part to play in shaping as well as in implementing public policy in this area".

7.58 The Committee believes that during the 1950s and 1960s the Hospital Commission and the Health Commission should have acted to ensure hospitals formulated policy and practice on the treatment of unmarried mothers considering adoption. These bodies clearly influenced policy and took action in hospitals prior to 1986 on a variety of issues.

Was the denial of access to the baby unethical or unlawful?

7.59 Refusing a mother's access to the baby was common practice until the late 1970s. The practice was intended to prevent maternal bonding and make the relinquishment easier. In the 1950s and early 1960s, there is little evidence that this practice was challenged. By the mid 1960s individual practitioners and the AASW took a stand against the practice. The

³³⁷ P. Roberts, op.cit., 1968, p.10

³³⁸ Smyth evidence, 27 August 1998

³³⁹ Submission 259

Committee believes that by this time there was enough informed criticism to warrant a more rigorous examination of the suitability of the practice by adoption professionals. By the mid 1970s, the NSW Standing Committee on Adoption also strongly and publicly opposed the practice. By this time, it would clearly have been highly unethical to deny access.

- 7.60** The Committee believes professionals failed to act quickly enough to halt what was already recognised as a damaging and inappropriate practice. As discussed above, the Committee is particularly concerned about the failure of the Hospitals Commission and Health Commission to prevent the practice and considers that more could have been done to ensure hospital practices reflected the patient's needs.
- 7.61** Mothers argued that the practice denied their legal rights as guardian of the child. As explained above, the Health Commission stated that the mother was the legal guardian of the child until the signing of the consent form. Justice Richard Chisholm agreed that the mother remained guardian of the child until she gave consent and that preventing her from having access to the child prior to the consent "would not have been authorised".³⁴⁰
- 7.62** The Committee therefore believes that the practice of denying a mother access to her child prior to the signing of consent was unlawful. Those professionals who contributed to the process where access was denied were clearly acting unlawfully.
- 7.63** Whatever the rationale for the practice, the Committee believes that in all cases women should have been consulted about this issue prior to the birth and that a woman should not have been denied access to her child if she requested it. Therefore, failure to grant access constituted an unlawful and unethical action.

Administration of medication

- 7.64** The Committee received many submissions from women with allegations of inappropriate administration of medication during labour and in the days after delivery. These drugs included sedative drugs as well as Stilboestrol, the medication for the suppression of lactation. This section examines the allegations made by mothers and the evidence presented by medical professionals on the administration of medication during and after labour.

The administration of sedative medication

- 7.65** Many women told the Committee about the range of sedative medication they were given during their time in hospital after the delivery of their baby, including Sodium Amytal, Pethidine, Largactil, Codeine, and Pentobarbitone.³⁴¹ Many women presenting evidence to the inquiry believe they were given large doses of sedative and other drugs to keep them 'calm' and 'drowsy' and to ensure they did not change their mind about the adoption. Barbara Moyes gave birth to her baby in 1963 at Hornsby Hospital.

³⁴⁰ Chisholm evidence, 25 October 1999

³⁴¹ Submission 93; Pratten evidence, 18 October 1999

During my stay in hospital, and my records state, I was systematically given pentobarb, phenobarb, Bonadorn and Stilboestrol. I was kept very calm indeed, the drugs certainly kept me in that state. This was part of the system.³⁴²

7.66 Other women believe that they were given different drug treatment to married women.

Did they give these drugs to women who were married and were having babies? I did not have them with my second birth.³⁴³

7.67 Dr Smyth told the Committee that prior to the 1970s:

there was a general feature that women would have some form of pain relief during and after labour. The most common drugs used for that pain relief were some form of sedative. Epidural anaesthesia only came into practice in the early 1970s.³⁴⁴

7.68 According to Ms Debra Thoms, Executive Director of the Royal Hospital for Women, sedation during the birth was the norm for all women in the 1950s and 1960s. This would have caused the woman to feel hazy and could have resulted in an incomplete memory of the birth.³⁴⁵

7.69 A 1956 medical textbook recommended sedative drugs for all women in labour for the purpose of lessening the pain, “to bring about a drowsiness in which nervousness and apprehension are allayed and to abolish memory”.³⁴⁶ Dr Fred Hinde told the Committee that as sedative drugs were given to induce amnesia it was considered a highly desirable drug to give women who were going to surrender a baby for adoption.

I lay some emphasis on this, not to justify it but to say to you, clearly in an era when people were told... have your baby, put it behind you, get on with it, a drug regime which would blot out the memory would be regarded as highly desirable, reinforcing that.³⁴⁷

7.70 It is standard hospital practice for doctors to make an order on a patient’s hospital chart with instructions on drug type and dose up to a certain maximum. In the case of medications such as sedatives and analgesics a doctor may request that the drug be administered as required, often noted in the chart as ‘PRN’. The nursing staff, based on the needs of the patient, then administer the medication. The Committee has been told that in the case of mothers who were considering relinquishing a child for adoption, maximum doses may have been given to mothers experiencing anxiety.

³⁴² Moyes evidence, 18 October 1999

³⁴³ McNeil evidence, 27 August 1998

³⁴⁴ Smyth evidence, 27 August 1998

³⁴⁵ Submission 253

³⁴⁶ Professor Chassar Moir (ed), 1956, quoted in Hinde evidence, 25 October 1999

³⁴⁷ Hinde evidence, 25 October 1999

- 7.71** Barbiturates such as pentobarbitone were commonly used up to the 1970s for the treatment of anxiety and insomnia and as a general anaesthetic pre-medication. The barbiturates act mainly on the central nervous system and their effects range from mild sedation to coma. According to a 1993 report by the Departments of Pharmacology and Pharmacy at the University of Sydney, the margin of safety for barbiturates is narrow, and due to the high risk of fatal overdose they have been largely replaced in the treatment of anxiety by the benzodiazepines.³⁴⁸ The impact of sedative medications such as barbiturates on a woman's capacity to give informed consent to adoption is discussed in chapter 8.
- 7.72** A number of women also told the Committee that they did not give their consent for the administration of sedative medications. Cheryl McNeil said that she could not remember giving permission for the administration of the sedative medications in the days after the delivery of her baby at Crown Street Hospital in 1969. In the years after the birth Ms McNeil accessed her hospital records and was "astounded" to discover she was administered pentobarb every night before sleeping, including the night before signing the consent.
- I cannot find anywhere in the paperwork where I gave permission for this. I do not know whether one is supposed to.³⁴⁹
- 7.73** According to Dr Tischler it was part of hospital protocol that the patient's "blanket consent" for confinement included the administration of drugs. Dr Hinde also told the Committee that when people came into hospital they signed a general consent form. The medical officers ordered all medications, and were not required to have a specific consent for each individual medication administered.

The administration of Stilboestrol to unmarried women

- 7.74** The drug Stilboestrol, or Di-ethyl-stilboestrol (DES) is a synthetic oestrogen drug and was given to unmarried women considering adoption to suppress lactation in the post-delivery period. The drug was also prescribed to pregnant women in the period 1938 to the early 1970s in the belief that it prevented miscarriages and ensured a healthy pregnancy.³⁵⁰
- 7.75** Many women providing submissions believe that they were inappropriately given Stilboestrol. The support group Origins suggested that:

³⁴⁸ Starmer, G. A. DJ Mascord, B Tattam, JH Vine & TR Watson, *The effects of single acute therapeutic doses of Pentobarbitone, Alone and in Combination with Alcohol, on Human Performance in Driving-Related Tests: Exploration of the Relationships Between Performance Decrements and Blood Concentrations of Pentobarbitone and Alcohol*, Roads Safety Bureau, June 1993

³⁴⁹ McNeil evidence, 27 August 1998

³⁵⁰ DES Clinic, *Information on DES*, Women's Service Royal Women's Hospital Melbourne, DES webpage, <http://wellwomen.rwh.org.au/des.htm>

Large doses of Stilboestrol were given to young unmarried women in large doses during the adoption period of the sixties through to the mid seventies. We can only guess the effects this has had on our developing bodies.³⁵¹

7.76 A number of women were not told of the reasons for the administration of Stilboestrol.

My son was born on the 1st of March, 1967 at Crown Street Women's Hospital, Sydney, NSW ... I was given Stilboestrol to dry my milk (I was not told what it was for) within hours of delivering my son.³⁵²

I was then given another drug I now know to be Stilboestrol during the remainder of my stay, although it was never explained to me as to why I was given this drug.³⁵³

7.77 The Committee understands that in many NSW hospitals it was 'policy' and common practice to administer Stilboestrol to women whose charts were marked BFA. The drug treatment usually began several hours after the birth to ensure the best possible results. According to Dr Hinde, large doses were given to these women and due to the high levels of oestrogen in the body at this time, "you have to give sizeable doses in order to achieve effect".³⁵⁴

7.78 In submissions to the inquiry, several women suggested that the dangers of Stilboestrol, including the increased risk of cancer, were known as early as the 1950s and 1960s. One mother who gave birth to her baby in the early 1960s at Crown Street explained:

I was made to express my milk, but was also given pills to suppress it (Stilboestrol (sic) now known to be cancerogenic (sic), perhaps for several generations).³⁵⁵

7.79 In the period after the 1970s DES was found to be both ineffective and damaging to the future health of both women who took DES in their pregnancy and their babies. According to Dr Hinde, a report produced in the 1960s showed that in women taking Stilboestrol there was a higher incidence of thrombosis – clots in the leg – than in women who did not. Dr Hinde argues that it was for this reason the administration of Stilboestrol was stopped. According to Dr Hinde, the only cancer risks associated with the drug occurred when it was given during pregnancy in the case of a threatened miscarriage.

I just want to emphasise that in fact the use of Stilboestrol postpartum has absolutely no relationship whatsoever to that cancer risk.³⁵⁶

³⁵¹ Submission 263

³⁵² Submission 60

³⁵³ Submission 14

³⁵⁴ Hinde evidence, 25 October 1999

³⁵⁵ Submission 8

³⁵⁶ Hinde evidence, 25 October 1999

7.80 In correspondence to the Committee, the head of the DES Clinic at Royal Women's Hospital Melbourne, Dr Ross Pagano, confirmed that there was no evidence of health risks for women given Stilboestrol in the post-natal period for the purpose of suppressing lactation. Dr Pagano explained, that, while there is a slight health risk to women given the drug during pregnancy:

using the drug post delivery reflects a completely different chemical situation as the background oestrogen levels in a lactating women are extremely low compared to the oestrogen levels during pregnancy which are obviously very high and so the two clinical situations cannot be compared.³⁵⁷

Committee view

7.81 While the anecdotal evidence presented to this inquiry suggests that unmarried mothers were given large doses of sedative drugs, particularly at labour and in the days after birth, the Committee was not able to do a systematic comparison of these drugs and dosages with those of married women. The Committee believes that judgments on whether the administration of medication to unmarried women was unethical or unlawful would require further comparative research studies. The effect of the administration of medication on the validity of the consent for adoption is discussed in chapter 8.

7.82 The Committee accepts the advice of Dr Hinde and Dr Pagano that there is little or no health risk to women administered Stilboestrol (DES) for the purpose of lactation suppression. Dr Pagano states that women given DES as a lactation suppressant do not require any specific treatment or follow-up as a result of the administration of DES. (See Appendix 7 for the correspondence from Dr Pagano.)

7.83 The Committee notes the changes in obstetric practice in the late 1970s and 1980s. The use of barbiturates and Stilboestrol ceased around this time as they were thought to have negative side effects. In addition to this, there was an increasing awareness of the importance of involving the pregnant woman and her partner in the development of birth plans. The birth plans would involve discussions with the obstetricians or midwives about how the woman would like the birth managed, including the nature of pain relief.³⁵⁸

Other allegations about birth practices

7.84 A number of other examples of the treatment of some unmarried mothers during and after labour were raised with the Committee. These include rapid adoption, limiting the access of the father, naming the baby and medical treatment of the baby.³⁵⁹

³⁵⁷ Dr. Ross Pagano, Correspondence, 14 November 2000

³⁵⁸ Smyth evidence, 27 August 1998

³⁵⁹ The issue of refusing to discharge a woman from hospital until she signed the consent to adoption is discussed in Chapter 8.

Rapid Adoption

7.85 Rapid adoption was described in a 1967 seminar organised by the Department of Child Welfare as the immediate allotment of a child to a mother just confined of a stillborn child.³⁶⁰ While it is difficult to determine the prevalence of the practice, there is some evidence to suggest it was occurring in the 1950s and 1960s. In 1953 Matron Shaw of Crown Street Hospital described the practice.

I can ... remember many cases when a married mother had lost several babies through difficult childbirth and wanted to adopt one while still in hospital. In very worthy cases like these we could come to an agreement with the Child Welfare Department that these mothers could immediately adopt illegitimate children still in the hospital and start feeding them. Within a matter of two weeks these mothers could take the baby home as if it were their own. All adoption papers were completed before they left the hospital.³⁶¹

7.86 According to past practitioner Margaret McDonald the practice was “certainly accepted and in some cases promoted...it seems likely there were only a relatively small number of exceptional cases”.³⁶² In evidence to the Committee Dr Siedlecky said that during her time at Crown Street in 1944-45 only two or three women had rapid adoptions.

Usually it was a private patient as I recall. I do not actually recall it happening to a public patient, but I could be wrong. If a private patient had lost their baby it would be the honorary gynaecologist or the honorary obstetrician who might have been involved in it.³⁶³

7.87 It is clear that rapid adoption did occur, but it also attracted criticism from some practitioners. At a 1967 seminar to discuss the Adoption of Children Act, several speakers expressed concern about the practice from the perspective of the adoptive parents, suggesting that it might deprive a mother of the opportunity to mourn her lost baby and adoptive fathers might feel they had been 'stampeded' into the decision to adopt. Other speakers raised concerns about administrative difficulties created by the disregard of departmental waiting lists and by the waiving of usual assessment procedures. While some were anxious about the possible short- and long-term impact on the child others felt the practice had much to recommend it, and had “rarely if ever failed”.³⁶⁴ In fact, a paediatrician at Royal Alexandra Hospital for Children and St George Hospital commented that a woman who had just lost a baby, but was physiologically and psychologically prepared for nursing a baby, was “perhaps one of the most desirable adoptions”.³⁶⁵

³⁶⁰ Dr Blow, Proceedings of a seminar, Department of Child Welfare and Social Welfare, 1967

³⁶¹ *Women's Weekly*, 7 October 1953

³⁶² Submission 246

³⁶³ Siedlecky evidence, 25 October 1999

³⁶⁴ Proceedings of a seminar, Department of Child Welfare, 1967

³⁶⁵ W. Grigor, *The Child*, Proceedings of a seminar, Department of Child Welfare, 1967

However, the possible impact of this practice on the birth mother was not recorded in the conference papers.

7.88 The Committee received a very small number of allegations concerning rapid adoption from individual women. One mother gave birth to her baby at Marrickville Salvation Army Hospital in 1968:

I saw my baby and gave him his bottle at feed times. A week later I was called to the office and told to say good-bye to him as his parents had come to collect him. Years later I learnt from his adopted mother that she was in the hospital giving birth to a daughter at the same time as me. Her baby died. Her doctor advised her not to try again as she had had several miscarriages, he said why not take one of ours?³⁶⁶

7.89 Other interpretations have been made of the practice of rapid adoption. The support group Origins told the Committee that they and other self-support groups have been inundated with inquiries “from mothers who had been told their babies had died and/or were found by their so-called babies”. According to Origins Chairperson, Linda Graham, this type of rapid adoption where the birth mother was told her baby had died was more likely to have occurred after the introduction of the *Adoption of Children Act 1965* and the introduction of the 30 day revocation period. The issue of rapid adoption and the impact on revocation is discussed in chapter 8.

7.90 The Committee has taken these allegations about rapid adoption very seriously, and referred one such case to the Health Department for further investigation.³⁶⁷ With the approval of the woman involved, the Committee provided the Health Department with the details of this case, as well as the hospital records. The NSW Health Department has provided the Committee with details of their investigation. The Committee is satisfied with the Department’s investigation and has provided a copy of the Department’s response directly to the mother concerned.

7.91 The Committee considers that the practice of rapid adoption involving the immediate allotment of a child to a mother just confined of a stillborn child was particularly misguided, despite suggestions at the time that it produced one of the most “desirable adoptions”. The Committee was extremely concerned with other allegations made about birth mothers being told that their baby had died, only to find out years later that their child was alive and was adopted. While not able to substantiate these claims the Committee believes that such actions, if they did occur, would constitute a serious breach of law and ethics.

³⁶⁶ Submission 17

³⁶⁷ The details of the case are not provided here to protect the privacy of the persons involved.

The treatment of fathers at and after the birth

7.92 It would appear that very few fathers were given access to the mother of their unborn baby or to their child while in hospital in the period prior to the 1970s.³⁶⁸ Evidence to the inquiry suggested that while most fathers were either not told of the baby, or were not able to provide support, the few young men who did attempt to visit the hospital were generally greeted with hostility and contempt by the staff. Diane and Peter Stebbings were a couple, although not married at the time of their first pregnancy in 1965. When Peter visited the hospital at the time of the birth:

I guess I had become the invisible man. I was tolerated but not really encouraged. Most of the time I would visit her we would spend outside rather than in the ward, and I guess looking back that was because we were made to feel uncomfortable being together.³⁶⁹

7.93 The Committee is aware of several cases in the period after 1970 where fathers were actively discouraged from visiting the mothers and attending the labour.

I gave birth to a dark-haired beautiful baby girl on 3rd February 1971 ... When I was in the third and final stage of labour I asked for my boyfriend to be allowed to stand beside me for the birth ... The response from the theatre staff was "absolutely not, but you can have your mother in here with you, but you can't have the father of your baby in here".³⁷⁰

In 1977 at 15 years of age, I gave birth to a baby boy at Camden ... The natural father of my baby was told by the hospital that he could not visit the hospital.³⁷¹

7.94 Linda Graham told the Committee about the delivery of her baby son at Hornsby Hospital in the early 1970s. While the pregnancy was not planned, Linda and her boyfriend at the time decided they would marry and keep the baby. Neither's parents were supportive of their decision. As Linda explained, when he attempted to visit:

My boyfriend was repeatedly denied access to my ward each time he tried to visit me. ... On the evening of the day that our son was born, Stephen rushed to the hospital after work to be with me only to be denied access.³⁷²

7.95 The importance of family support in allowing the young man access to his girlfriend appeared to be critical. In the bed next to Linda Graham, another unmarried mother had been admitted whose parents visited her regularly, and according to Ms Graham:

³⁶⁸ The Committee notes that at this time there was little acknowledgment of the role of all expectant fathers during labour and in the post-natal period.

³⁶⁹ Stebbings evidence, 19 October 1998

³⁷⁰ Submission 112

³⁷¹ Greenup evidence, 18 October 1999

³⁷² Graham evidence, 25 October 1999

Had the parents not been as supportive I very much doubt that her boyfriend would have been allowed in the ward to see her.³⁷³

7.96 In his submission to the inquiry, Ms Graham's then boyfriend explained that his attempts to gain access to Linda and the child were denied.

My recollection of events at this time and the feelings this evoked in me were confusion, powerlessness, complete denial of my rights and lack of any information. In fact my belief is that I was looked upon as an inconvenience by those in power.³⁷⁴

7.97 While some men were permitted into the ward to visit the baby and mother, their wishes about the care of the baby and the adoption were ignored. Cameron Horn explained that after the birth of his daughter in 1980 he visited the hospital to find the mother of his child and the social worker discussing adoption.

I replied "This is wrong, completely wrong" ... [The social worker] listened to every word. She didn't leave the room and give us some privacy. She sat down on the other side of the bed from me and heard, not for the first time, how I felt about adoption.³⁷⁵

7.98 While the Committee was unable to ascertain whether there was written policy at individual hospitals on the access of fathers, there is little likelihood that such policy existed prior to the 1970s. However, despite evidence to the Committee suggesting that very limited access was provided, particularly prior to the mid 1970s, some past practitioners argued that access was allowed. According to a former midwife at St Margaret's Hospital:

The putative father was given the same rights as other visitors who wished to see the mother, and she decided if or who could see her baby, so there was no difference, other than that.³⁷⁶

Father's name on the birth certificate and other records

7.99 A number of mothers and fathers told the Committee that despite their requests to have the name of the father recorded on the birth certificate, these wishes were ignored.

In my particular case I requested that the father's name be included on the birth certificate as he had indicated that he would like this to occur.³⁷⁷

³⁷³ Graham evidence, 25 October 1999

³⁷⁴ Submission 269

³⁷⁵ Horn evidence, 18 October 1999

³⁷⁶ Witness K evidence, 20 September 1999

³⁷⁷ Submission 27

7.100 Some women suggested they were not told what was required to ensure the father's name was recorded and many were distressed to find years later, upon accessing their records, that there was no reference to the birth father.

(T)here was no information in these records regarding (my daughter's) birth father. Why not? I had given lots of information about both H.C and myself ... I was disappointed to be told that all references of her father were not recorded not even his name.³⁷⁸

7.101 According to the AASW, in cases where a mother was to relinquish the child for adoption, the hospital social worker would consult the young woman about whether or not she wanted the name of the father to be recorded on the birth certificate.

If she wanted the father's name it would be necessary for the father to sign, I think, a statutory declaration in front of a JP to give his permission for his name to be given.³⁷⁹

7.102 The recording of the father's name on the birth certificate was "legally impossible" if he was not married to the mother of the child, unless a separate form was signed by the father. As Ms Georgina Taylor from NSW Registry of Births, Deaths and Marriages explained:

Unless the father had acknowledged that he was the father, either on the birth registration form or subsequently, he could not be included on the birth certificate.³⁸⁰

Ms Taylor believed that less than two per cent of original birth certificates from the period up until the 1980s included the name of the birth father. She suggested this may have been due to the reluctance of fathers to contact a justice of the peace, or their lack of knowledge of this requirement.

7.103 Senior Manager at PARC, Sarah Berryman, told the Committee that many birth fathers have contacted PARC to get information about their child, particularly since the introduction of the new regulations in 1996 allowing birth fathers greater access to information. For many of these fathers, the discovery that their name was not recorded on the birth certificate despite the request of the birth mother was very upsetting.

It is distressing for these men to discover that they were not named on the birth certificate or to learn of the sometimes complicated steps they have to go through, including contacting the birth mother after an absence of perhaps 20, 30 or 40 years, to have their name added to the certificate.³⁸¹

³⁷⁸ Submission 39

³⁷⁹ Davidson evidence, 27 August 1998

³⁸⁰ Taylor evidence, 16 June 1999

³⁸¹ Berryman evidence, 2 September 1998

7.104 As a social worker with Anglicare suggested, fathers were a neglected group in the period particularly up until the 1980s. Ms Croft explained that in the Carramar records there is often a lot of information on the father and over the years there have been:

quite a few fathers who have come back and wanted to be identified so that they can apply to have their names on birth certificates and then be entitled to the same rights as a mother on the adoption information.³⁸²

7.105 The lack of information about the birth father on the birth certificate and on other records can also be troubling for many adopted people. Without adequate recorded information on the father, many adoptees may assume that their father was unknown to their mother, and this may influence the way in which they understand their conception and birth. The Committee was pleased to note that when a father desires it, the Registry of Births, Deaths and Marriages will “do all we can” to facilitate his name being recorded on the original record. Ms Taylor explained to the Committee:

If we can corroborate his claim we will add it. For example, the mother may have written his name, but he was not available to sign; he may have been named by her in a report by a social worker; he may have had a maintenance order against him ... If we can turn up with proof we presume he is the father and we can fix the record. This means that the adopted children have the chance to find information about both parents, which they otherwise often do not have.³⁸³

7.106 The treatment of those fathers who took an interest was often poor and as most past practitioners have acknowledged, very little consideration was given to their needs. Very little was done for fathers and they were rarely consulted. This explains, in small part perhaps, the fact that only 2% of fathers were named on the original birth certificate prior to the 1980s. The Committee regrets that so little was done for fathers but is pleased to note that action has been taken to ensure they can be recorded on the birth certificate and access adoption information.

Naming the baby

7.107 The evidence to the Committee suggests that in the period before the 1970s, the mother was not encouraged to provide a name for the baby. In many hospitals, the nursing staff gave the child a name for the period of time before the adoption consent was signed.³⁸⁴ Many women giving evidence to this inquiry were told not to name the baby as it would “help prevent bonding”. The Committee understands that it was a common occurrence in the period prior to the 1970s for a birth mother to be advised not to name the baby. In a letter to an adoptee from the NSW Department of Community Services, an officer explained that “some birth mothers were advised or thought it best, to allow the adoptive parents to name the baby.”³⁸⁵

³⁸² Croft evidence, 30 September 1998

³⁸³ Taylor evidence, 16 June 1999

³⁸⁴ ABC TV, *Four Corners*, 1966

³⁸⁵ Submission 99

7.108 Other women remembered providing a name for the baby and believed this name to be recorded on the birth certificate, only to find out later that the original birth certificate recorded the baby as 'unnamed'. Sharon Kemp gave birth to a baby son in 1973 in a rural NSW hospital. Throughout the pregnancy, Ms Kemp planned to keep the baby and she placed a birth notice in the local paper, including the name of the baby. After three weeks with the baby, Ms Kemp made the decision to relinquish her child for adoption.

My major grievance is related to the registration of my child, done in early March. This does not show up in official records. The only registration that shows up is the one done by persons unknown on 3 April 1973 stating, 'baby unnamed'. I KNOW I registered him. . I had every intention of keeping him. I put his birth notice in the paper.³⁸⁶

7.109 Ms Taylor from the Registry of Births, Deaths and Marriages explained that the birth registration form is lodged with the Registry to allow for the completion of the birth certificate. Ms Taylor told the Committee:

I have not come across a case of a form being received with a name on it and then being changed to "unnamed". If we receive the form with a name we register the birth with that name.³⁸⁷

Ms Taylor suggested that a young woman could have placed a name for the baby on one of the many forms she had to fill out for the adoption, and presumed that this name would be transferred to the birth certificate.

7.110 A representative of the support group Adoption Triangle, Ms Bessie Knox, told the Committee about the impact on the adoptee of the policy of discouraging mothers from naming the child.

Many birth mothers were not allowed to see their babies. In some cases they did not know the sex of the child. Some were discouraged from naming their child. This caused pain and disappointment to adoptees when seeing their original birth certificate with no Christian name on the form. It sometimes takes quite a lot of convincing by the counsellor that this was not a reflection of the birth mother's feelings for her baby but quite often the result of some very bad advice: "Don't name the baby and it won't be real."³⁸⁸

7.111 The failure to record the given name of the baby on the birth certificate has caused, and continues to cause, considerable distress for many women and adoptees. As Ms Kemp explained:

What distressed me so much was the fact that my child has applied for his Original Birth Certificate and would have found no name or evidence of caring by me, and this may have influenced his decision not to have any contact with me yet. ... I want him so much to know that I did care enough to give him a name ...

³⁸⁶ Submission 115

³⁸⁷ Taylor evidence, 16 June 1999

³⁸⁸ Knox evidence, 29 July 1999

- 7.112** The Committee understands that many women did name their baby, and asked that the name be recorded on the original birth certificate, and believes that it would have been unethical not to carry out the wishes of the mother. As discussed throughout this report, very little policy on adoption procedures existed within adoption agencies and hospitals until the late 1970s. However, in the Health Commission's 1982 policy document on adoption, it is clearly stated that "the mother has the right to name her child".³⁸⁹
- 7.113** The information provided to this inquiry suggests that many women in the period prior to the 1980s gave their baby a name and believed that name would be recorded on the certificate. While it is understandable that there may have been some confusion about the number of forms required for the birth and consent for adoption, the discovery that the name had not been recorded has caused considerable distress for many mothers, fathers and adoptees. The Committee believes that more should have been done to ensure the name given to the baby by the birth mother was formally recorded.
- 7.114** The Committee understands that the Registry is now able to facilitate the correction of adoption information so that if the mother completes a declaration as to her intention about the name of the child, the Registry will add that to the certificate.

Consent to medical treatment of the mother and baby

- 7.115** A number of allegations were made about the provision of consent for medical procedures on mothers and babies. The Committee was told of a case where the Matron of Carramar maternity home gave her consent in 1963 for a 17 year old resident to undergo surgery at Hornsby Hospital. The young woman gave birth by Caesarean section, and included with her submission the consent form signed by the Matron.³⁹⁰ In response to the Committee's questions about this case, and whether or not this was a regular practice, Carramar past practitioners explained:

I believe that we usually asked the parents to sign this document. I have been in touch with the matron of the hostel [...] and she cannot recall having signed such a document.³⁹¹

The practitioner believed that it was unlikely that this was a common practice.

- 7.116** One of the issues of greatest concern to many of the mothers providing submissions to this inquiry was the discovery that their babies had been in need of sometimes serious medical treatment but they were not informed nor consulted about this treatment. After the birth of her baby at Crown Street in 1965, Rosemary Chaney's son was "diagnosed as having fluid on his lungs for which he received an (unauthorised by myself) xray".³⁹²

³⁸⁹ NSW Health Commission, op.cit., 1982

³⁹⁰ Submission 73, Confidential

³⁹¹ Witness J evidence, 20 September 1999

³⁹² Submission 14

According to another mother who gave birth in 1974, after the birth her son was placed in a humidicrib and when she was taken to see him:

I questioned why he was receiving phototherapy treatment in the humidicrib and as his legal guardian I had not been informed of his condition and had not been asked permission to treat him.³⁹³

- 7.117** The Committee received an allegation from one mother that her three-day old baby was used in a medical experiment conducted by a Sydney-based research foundation in 1966. The nursery report attached to the mother's submission shows that when the baby was three days old he was transferred to a research centre where he was administered with one 4ml dose of Phenergan³⁹⁴ at 9.30am, followed by another 2ml dose at 1pm and was then returned to the nursery at 3pm on the same day. The mother believes that the doctor responsible for the experiment was conducting research on the respiratory problems of premature babies and that her baby was part of a 'control' group of full term, healthy babies.³⁹⁵ According to the child's medical records, he was in general good health during his stay in hospital, although he appeared to have a slight rash before and after the administration of the medication. It would seem that the mother's consent for the experiment was neither sought nor given. She also expressed concern that her baby had received a drug, which is now not recommended for children less than two years of age.
- 7.118** The Committee raised the above allegation in correspondence to the Royal Australian and New Zealand College of Obstetricians and Gynecologists (RANZCOG). The Committee asked if the College had any knowledge as to whether babies expected to be relinquished for adoption were ever used by hospitals or research organisations in medical experiments and if so, whether such cases as that referred to above could be considered illegal or unethical. The president of the College, Dr Ian Fraser, stated that RANZCOG was unable to comment on the Committee's questions 'since they relate to a time when this College was not in existence, and it has not made any pronouncements on these issues'.³⁹⁶ While the College was able to provide contact with a past practitioner, obstetrician Dr Harry Tischler, the Committee was disappointed that the College was unable to provide more information on this and other issues.
- 7.119** The Committee is aware of revelations in 1997 concerning the use of children in medical experiments in Victorian institutions between 1945 and 1970. It was alleged that children, many of whom were State wards, participated in non-therapeutic research in which informed consent was not obtained from their guardians.³⁹⁷

³⁹³ Submission 13

³⁹⁴ Phenergen is the product name for promethazine hydrochloride, a long acting antihistamine medication. MIMS Annual, Twenty-fourth Edition, June 2000, p.12-997

³⁹⁵ Submission 42

³⁹⁶ RANZCOG, Correspondence, 6 March 2000

³⁹⁷ *The Age*, 28 June 1997 p.1

- 7.120** In response to public anxiety generated by these revelations, the NSW Department of Health conducted an 'exhaustive' search of its archives and found no evidence that NSW children were subjected to similar experiments.³⁹⁸
- 7.121** While there was very little formal regulation of clinical trials by State or federal Australian governments until the 1970s, medical practitioners were ethically required to obtain informed consent under either of the two international codes on human experimentation relevant at the time (the Nuremberg Code and the Declaration of Helsinki).³⁹⁹ Nevertheless, failure to obtain consent from research subjects was apparently not unusual during this period. According to Professor Miles Little, the understanding of medical ethics generally during the 1950s and 1960s was 'primitive' and researchers worked within a 'paternalistic' medical model⁴⁰⁰ in which they felt they knew what was best for their patients or subjects.
- 7.122** The Committee is concerned about the mother's allegation and notes that vulnerable people have often been the target of medical experimentation, particularly before more effective regulation was introduced in the 1970s and 1980s. If such an experiment occurred without consent it would have constituted a serious breach of medical ethics.

Conclusion

- 7.123** The period 1950 to 1998 saw radical changes in birth practices and procedures for all women, and in particular women who relinquished a child for adoption. The Committee notes that while obstetric practice prior to the 1970s meant that very often married and unmarried women alike were left alone during labour and were not consulted about their treatment, unmarried women perceived this as further discrimination as a result of the negative attitudes towards them.
- 7.124** The evidence to this inquiry suggests there were a number of practices during and after the birth that were inappropriate, unethical or unlawful. The Committee believes that it was unlawful for mothers to be refused access to the baby prior to the signing of the adoption consent. The Committee acknowledges that while this practice was initially done 'in good faith' to protect the mother from bonding with the child, the effect of the practice was to cause the mother considerable and sustained suffering. It is a matter of serious concern that the practice persisted despite evidence of its harmful nature.
- 7.125** The evidence to this inquiry suggests that many women were alarmed by the sedatives given at the time of birth and after. Further research would be required to determine whether unmarried women were given larger doses than married women, and whether these doses were excessive. Nevertheless, the Committee accepts that many women,

³⁹⁸ *Sydney Morning Herald*, 6 December 1997, p.8

³⁹⁹ P. McNeill, *The Ethics and Politics of Human Experimentation*, Cambridge University Press, Melbourne, 1993

⁴⁰⁰ A. Sarzin, *Experiments on Children: how are we to judge?*, *Medical Observer*, 22 August 1997, p.45

particularly unmarried mothers considering adoption, were given sedative drugs with the intention to 'blot out memory'.⁴⁰¹

7.126 The fathers were disregarded and very little was done to consult or involve them during the birth and in the postnatal period. The Committee believes that this failure to acknowledge fathers was wrong and caused long-term harm to those involved. The failure to record the birth father's name, and the name of the child given by the birth mother, has also caused pain and suffering to them and to other people, including adoptees.

7.127 In the light of the evidence received on the past failure of professionals to respect the rights of mothers, the Committee is encouraged by this statement by the Deputy Director General, Policy, NSW Department of Health.

There is now an absolute recognition of the rights of mothers and the rights of all patients to be informed about what might happen and their clinical options, and to be involved in decisions about their care.⁴⁰²

⁴⁰¹ Hinde evidence, 25 October 1999

⁴⁰² Smyth evidence, 27 August 1998

Chapter 8 Consent and revocation

The mother should then be asked if she understands the wording and the meaning of what she proposes to sign, and the meaning of consent should be re-stated again in words as simple as is indicated for the maturity and intelligence of the particular mother, e.g.

You understand, don't you, that this paper you are signing means that you are giving up your baby for always? It means your baby will belong to strangers, for always, and you will never see him or hear of him again. He will, in fact, become legally their child just as if he had been born to them and not to you .⁴⁰³

Introduction

As the above quote so vividly demonstrates, the completion of an adoption consent by a relinquishing mother is a critical event in an adoption experience. Yet many mothers who presented evidence or submissions to the Committee claim that their consent to adoption was neither free nor informed. This Chapter examines the professional practices related to the consent to an adoption during the period under review, but particularly from 1950 to 1975.⁴⁰⁴ The allegations of unethical and unlawful practice made by mothers relate to three main areas: information provided by social workers in the weeks and months preceding the adoption consent; a range of practices which occurred in the period between the birth and the consent-taking interview; and thirdly, various matters concerning the mother's right to revoke consent. The chapter begins with a brief overview of the relevant legislation regarding the consent to an adoption.

Consent provisions before and after 1967

Consent under the *Child Welfare Act 1939*

- 8.1** Before 1967, adoption practice was regulated by the *Child Welfare Act 1939* and by Supreme Court Rules. However, neither the Act nor the Rules provided much guidance regarding the taking of consents.
- 8.2** The people eligible to witness a consent included doctors, legal practitioners, ministers of religion and justices of the peace, among others. Employees of the Department of Child Welfare responsible for taking consent were most commonly Justices of the Peace. The person who witnessed the consent had to swear an affidavit that the document had been read and explained and in their view had been understood by the surrendering parent. In private adoptions, a private solicitor acting on behalf of the adopting parents usually

⁴⁰³ Australian Association of Social Workers, NSW, *Manual of Adoption Practices in New South Wales*, 1971, p.8

⁴⁰⁴ While there are a small number of alleged unethical or illegal practices in relation to adoptions after 1980, the vast majority of these claims relate to adoptions before 1980.

witnessed consents. Maternity homes would as a rule engage a firm of solicitors who would undertake the work in relation to most of their placements.⁴⁰⁵

- 8.3** The natural parent could nominate the adoptive parents or the parents could be selected by the department. The consent document included the name of the adoptive parents. The adoptive parents received a copy of the adoption order, which included the name of the mother, but a copy was not provided to the mother.
- 8.4** The Act did not stipulate when an adoption consent could be taken and so could be completed any time after the birth. There was no process for revocation of consent but the consenting parent remained the guardian of the child until an adoption order was made and could withdraw their consent until this time.⁴⁰⁶
- 8.5** Consent could be dispensed with if the Court deemed it 'just and reasonable to do so' and might include, for example, cases where a parent had abandoned or abused the child or where the parent could not be found.⁴⁰⁷

Consent under the *Adoption of Children Act 1965*

- 8.6** Under the Act, a consent could not be taken until the fifth day after the birth, unless there were special circumstances. The Act also introduced a set period for revocation of consent, which could occur within 30 days of the signing of a consent or before the day an adoption order was made, whichever was earlier. Once the consent was signed, the Director General of the Department of Child Welfare assumed guardianship of the child.
- 8.7** The consent documents required by the Court consisted of two forms. One was the instrument of consent (Form 7) and the other was Form 9: *A Request to Make Arrangements for the Adoption of a Child*. This form included a paragraph relating to the right to revoke consent within 30 days from the signing of the consent. The person taking consent was required to explain the effect of giving consent, allow the mother to read the documents and be satisfied she had understood them.⁴⁰⁸
- 8.8** Prior to amendment of the Adoption of Children Act in 1980, the father of the baby had no legal rights with regard to an adoption consent.⁴⁰⁹

⁴⁰⁵ McDonald & Marshall, op.cit., chapter 3

⁴⁰⁶ *ibid*, p.65

⁴⁰⁷ Chisholm evidence, 25 October 1999

⁴⁰⁸ Australian Association of Social Workers, NSW Branch, op.cit., 1971, p.7. Section 31 of the Act states that consent should not be taken within three days of the birth of the child. The Committee understands that the three day period commenced on the day after the day of birth, meaning that in effect, consent could not be taken until the fifth day after birth.

⁴⁰⁹ Submission 246

Defective consents

- 8.9** Under both the Child Welfare Act and the Adoption of Children Act, consent-takers were required to demonstrate that the implications of the consent were fully understood by the person signing the consent and that the consent was given freely. The requirements to ensure free and informed consent were more clearly spelt out in the Adoption of Children Act, including the circumstances in which a consent could be deemed to be 'defective'. Section 31 of the Act states that defective consents include those obtained by 'fraud', 'duress' or other 'improper means', or if the person giving consent did not understand the nature of the consent or was not of a fit condition to do so.
- 8.10** Duress was not defined under the Act, but is generally understood to refer to the use of threat to compel someone to do something against their will. Fraud, also not defined, usually refers to any behaviour involving a known element of deceit, dishonesty, unfairness or lack of care calculated to deceive others and to bring some advantage over, or loss, to those who have been defrauded. Improper means are not defined in the Act, but can be understood as referring to ways of obtaining consent that are contrary to the intention of the Act. The Act also creates an offence of 'undue influence' whereby a person could be prosecuted for a criminal offence if they sought to induce a person to offer their child for adoption or if the consent-taker failed to follow the appropriate steps to ensure the person signing the consent understood its implications.

The right to make a free and informed decision about adoption

- 8.11** An unmarried mother's right to make a free and informed decision about the future of her child was a fundamental principle of adoption law and practice, both before and after the Adoption of Children Act. For example, in 1961, the Minister for Child Welfare, Mr Frank Hawkins said that:
- Natural parents must be helped to make their decision to surrender a child for adoption only after mature consideration of the alternatives available and should be protected from any attempt to persuade them to place the child unsuitably.⁴¹⁰
- 8.12** The Adoption of Children Act strengthened parents' rights to make a free and informed decision about adoption by stipulating that the 'natural parents' should receive casework to ensure all relevant matters are considered before making a decision to relinquish.⁴¹¹ This right was not impaired by the principle that the welfare and interests of the child should be paramount.⁴¹²

⁴¹⁰ Hon F. Hawkins, MLA, NSWPD, Legislative Assembly, 19 September 1961, p.927

⁴¹¹ W. C. Langshaw, *Statutory Provisions for Adoption*, Adoption Services in New South Wales, Proceedings of a Seminar, 3 February 1967, Department of Child Welfare, p.8

⁴¹² Hon McGaw, MLA, NSWPD, Legislative Assembly, 7 December 1965, p.3007

Practices relating to the period prior to consent

8.13 The first group of allegations regarding adoption consents relate to information about adoption provided by social workers and others in the weeks or months preceding the consent. Some women allege that social workers blatantly promoted adoption and failed to advise them of the alternatives to adoption and the possible adverse consequences of relinquishment.

Did social workers promote adoption?

8.14 As discussed in chapter 6, many mothers claim that social workers presented adoption as the only option for a mother who truly loved her baby because it would provide the child with a 'proper' two-parent family. Marianne Himmelreich, whose baby was born in 1973, was told by an adoption professional:

..... that if I loved my child then I would want what was best, and that was for my child to go to a two parent established home, to a much better life than I as a single mother with no present means of support, would be able to give my child...⁴¹³

8.15 Former adoption professionals told the Committee that in their experience, mothers were not coerced by social workers to relinquish their babies. They emphasised the significance of family and social pressures on a woman's decision and suggested that many women had decided firmly on adoption before their first interview. However, they also noted that social workers, like many people in the 1950s and 1960s, presumed that adoption was the best option for an unmarried mother without support from her family or the father of the baby. According to Angharad Candlin from Centacare

... adoption workers, all it appears, qualified Social Workers, worked largely within existing social parameters. Values and beliefs such as the worth of a child being reared in a two-parent family were undoubtedly held.⁴¹⁴

8.16 A presumption in favour of adoption was evident in much of the professional literature during this period.⁴¹⁵ As discussed in chapter 6, social workers in the 1940s and 1950s were strongly influenced by psychoanalytic theories which presented relinquishment as the most appropriate way for a woman to resolve her emotional conflicts.

8.17 Given the widespread support for adoption in the professional literature and the community generally, it is possible that social workers did present adoption as the most suitable decision for a woman without support. While this might in many circumstances have been ethically acceptable behaviour, it was clearly not ethical for a social worker to attempt to persuade a woman to relinquish. Such behaviour would most likely contravene

⁴¹³ Himmelreich evidence, 18 October 1999, p.145

⁴¹⁴ Submission 257

⁴¹⁵ D. Brodzinsky, op.cit.

the social work principle of client self-determination. Under certain circumstances, it might even be unlawful, as Professor Richard Chisholm told the Committee:

I do not have any doubt that forcefully reminding expectant mothers of the difficulties (of keeping the child) could, in some circumstances, constitute duress.⁴¹⁶

Information about alternatives prior to the consent-taking interviews

8.18 As discussed in Chapter 3 non-adoption alternatives for those women without family support were extremely limited. The Chairperson of Origins, Dian Wellfare, told the Committee that none of its 2000 members knew that any of these alternatives were available prior to 1973, until they were informed of their existence relatively recently by Origins. They suggest that social workers withheld this information to make sure mothers would relinquish their babies.⁴¹⁷ The majority of mothers who provided evidence or submissions to the Committee also claim that they were never told about alternatives to adoption, including Barbara Moyes who spoke during the Adoption Forum:

... I was never given any other information that would help me make an informed decision about keeping my child.... Those who had the knowledge of the means of support I could obtain if I were to keep my child kept silent.⁴¹⁸

8.19 In cases where the mother informed the social worker that she had decided to relinquish, this decision was apparently accepted without question and alternatives were never raised

I did walk in the door saying that I thought adoption was the best thing, because my mother was working, I could not see how I could look after my child. It was as if I was picked up and taken along with yes, I want to adopt. For all these years I didn't know there were alternatives. I was not given any alternatives. It was as if I walked in the door and said "I want to commit suicide" and she said "Very well. Do you want to go into the community and commit it or do you want to go into a home and commit it?".⁴¹⁹

8.20 As discussed earlier, under the Adoption of Children Act private adoption agencies were required to provide a casework service to all three parties to an adoption, including the natural parents. Counselling for natural parents was supposed to help them to explore their feelings and make a decision about the baby. It was understood that alternatives to adoption should have been discussed in order to achieve this goal, as suggested by the Manual on Adoption produced by the AASW in 1971:

⁴¹⁶ Chisholm evidence 25 October 1999

⁴¹⁷ Wellfare evidence, 2 September 1998

⁴¹⁸ Cameron evidence, 18 October 1999

⁴¹⁹ McNeil evidence, 27 August 1998

She (the mother) should be informed of the alternatives available, and directed to the most appropriate sources of counselling and of material and physical care.⁴²⁰

- 8.21** The manual also advised against making an assumption that a woman had made up her mind about adoption.

When a client approaches an adoption agency initially with a request for help during pregnancy and confinement, it should not be presumed that the client has, thereby, definitely decided on the adoption of her child...⁴²¹

- 8.22** This view was reiterated by the AASW in its evidence to the Committee:

It is part of the self-determination aspect. ...Even if a mother says, "I just want my baby adopted", your starting point should be, "Let us go back to when you found out you were pregnant. What did you do then? Who knows about this?" You should try to find out what supports might or might not be there. You should ask, "Have you talked to your parents about this?" What are they doing? ...That would be part of working out what options might be there, and that is what would be expected.⁴²²

- 8.23** Former adoption workers told the Committee that social workers felt professionally obliged to give a woman information about alternatives and that in most cases, this would have occurred.

It was certainly seen as best practice. I have now spoken to seven workers from that time and they were quite adamant that there was an obligation to talk about alternatives.⁴²³

- 8.24** One past adoption worker recalled that workers did offer alternatives but many women would not listen because their minds or their families' minds had been made up for them before they arrived at the agency.⁴²⁴ Alison Croft told the Committee that some women may not recall being told about alternatives because they might have been emotionally distressed and the options were not provided in writing.⁴²⁵

- 8.25** Evidence from the 1950s and 1960s indicates that some social workers did discuss non-adoption alternatives with some mothers. Firstly, alternatives to adoption such as foster care and temporary accommodation were offered by some agencies and maternity

⁴²⁰ Australian Association of Social Workers, NSW, 1971, op.cit., p.1

⁴²¹ *ibid*, p. 2

⁴²² Talty evidence, 27 August 1998

⁴²³ Croft evidence, 30 September 1998

⁴²⁴ Witness I evidence, 20 September 1999

⁴²⁵ Croft evidence, 30 September 1998

homes.⁴²⁶ The Committee's archival research has identified casework notes which clearly indicate there was some discussion about alternatives.

Girl presented, ambivalent about keeping baby, putative father deceased, little family support, but thought brother could assist.

Casework Plan: Social Worker suggested that X talk with her brother as planned and then come back to see Social Worker the following Friday. Social Worker outlined the help that would be available to X if she decided to keep her baby, and also discussed with her the procedures of adoption.⁴²⁷

8.26 However, the fact that alternatives existed and were utilised does not prove that alternatives were routinely raised with unmarried pregnant women. The former principal officer of the Catholic Adoption Agency, Margaret McDonald, said that while her agency would not have withheld information about options, they did not routinely inform mothers about alternatives

The young women who came to our private agency had been referred, in the great majority of cases, by a hospital or by a mother and baby home where the preliminary discussion about adoption had already taken place. ...we presumed they were going ahead with it. The options were not routinely offered, discussed or brought up. If brought up by the girl, they would have provided whatever information they could

The worker saw as her principal responsibility in relation to a mother who had decided on adoption that of helping her to implement that decision. Had information about options been withheld in order to ensure that the mother surrendered her child that would certainly have constituted unethical behaviours. The simple truth was that discussion of options was outside our frame of reference, unless the mother herself indicated uncertainty about her decision, in which case she was given whatever help was available to her to come to a final decision....⁴²⁸

8.27 McDonald admits that by today's standards, such an approach would be considered narrow:

This very narrow definition of the worker's role, what by later standards appears lamentably tunnel visioned and inadequate, was dictated by the role of the agency as perceived at that time and by the resources available and the pressure of competing demands....While it remains true that little was available in terms of options to adoption for the mother of an ex-nuptial child whose family would not support her in keeping the child, she should have been given much greater opportunity to express her feelings and ideas about the choice she had to make. ⁴²⁹

⁴²⁶ These alternatives are discussed in chapter 6.

⁴²⁷ Benevolent Society of NSW, *Social Workers' case files*, February 1969.

⁴²⁸ Submission 246

⁴²⁹ Submission 246

- 8.28** McDonald pointed out that the narrow definition of the worker's role was also dictated the need to find suitable homes for babies. The workload faced by adoption workers, especially during the peak adoption years, was extremely large and would have had an impact on whether alternatives were routinely discussed with women who appeared to have made up their minds. Ms McDonald cited an example of a social work graduate at the Women's Hospital, Crown St in 1970 who had a caseload of 400 single mothers.⁴³⁰
- 8.29** There are contradictory elements in the evidence from both mothers and former adoption workers as to whether social workers informed mothers about alternatives to adoption. The Origins group claim that none of their 2000 members were told about alternatives and yet the Committee has evidence that such alternatives were utilised by some mothers, indicating there had been some discussion with mothers about these options. In addition, it should be noted that a significant proportion of single mothers kept their child throughout the period under review. For example, in 1972 there were 9766 ex-nuptial births, but only 4239 babies were relinquished for adoption. For some reason, possibly because they were in a stable de facto relationship or had some form of family support, these women were able to keep their babies.
- 8.30** Most of the former adoption workers asked about this issue said that social workers were ethically obliged to discuss alternatives with their clients and this would have occurred. They suggest that women may not recall receiving this information because their minds were made up or the details were not provided in writing. However, the Committee was also told by another worker that it was not routine practice to raise alternatives with women if they thought the woman had already made up her mind to relinquish her child or she lacked family and other support.

Information about the psychological effect of adoption

- 8.31** Many women allege that social workers failed to warn them of the debilitating effect of adoption on the emotions of mothers, and the possible future effect on their mental health, even though these effects were generally well known. They suggest that if they had known about the emotional consequences of adoption they would never have signed the adoption consent. In the Committee's view, adoption professionals should have made a greater effort to investigate the impact of adoption on relinquishing mothers in the 1960s and early 1970s.
- 8.32** However, the Committee does not consider that the knowledge of such effects were well-known until the early 1980s or that they were obscured by professionals. The extent of knowledge of the long-term effects of adoption is discussed in chapter 9.

Practices relating to taking consents

- 8.33** Many mothers told the Committee that their consent to an adoption was invalid because it was obtained as a result of illegal and unethical practices which occurred during the period between the birth of their baby and the signing of the consent to an adoption. These

⁴³⁰ Submission 246

practices included completing the consent while under the influence of post-natal sedatives and refusing mothers access to the baby and to information about its well-being and gender until the consent was signed. Unethical and illegal practices also extended to making various threats to secure consent and failing to advise mothers of the alternatives to adoption. The section also deals briefly with other allegations relating to the adoption consent including signing consent before the minimum prescribed time, forging a mother's signature and obscuring parts of the consent document.

Medication and consent

- 8.34** As discussed in chapter 6, many mothers told the Committee they received large doses of sedatives before and after the birth. A frequent allegation made by mothers was that the administration of post-natal sedatives rendered them unfit to give their consent to an adoption. Linda Devasahayam told the Adoption Forum about her experience in 1973:

...I signed the adoption consent form under extreme duress. My medical records show that I was given morphine for the first four days in hospital as I had a Caesarean section delivery. From the fifth day, when I became ambivalent, I was given pentobarbitone daily for five days. This included the day I signed the papers and the evening before I was discharged. There is no way I was of sound mind and no way I could have comprehended what I was doing at all.⁴³¹

- 8.35** Consultant Psychiatrist, Dr Rickarby, who has counselled hundreds of women about their adoption experiences over the past 35 years, told the Committee that the level of sedation received by most of these mothers would have seriously impaired their judgment:

Largely they were drugged in one form or another. ...they were given, in particular, the drug pentobarbitone in its soluble, injectable form. They would have been in no state to have any idea or to work out what the possible futures were for themselves while in that state of mind.⁴³²

- 8.36** Dr Tischler, the Medical Superintendent of the Women's Hospital, Crown Street from 1968 to 1980, said:

Unmarried mothers may have been given a dose of sedative at or around the time of signing consent for the adoption in particular if they were emotional or tearful at the time.⁴³³

- 8.37** The Clinical Superintendent at King George V Hospital from 1959 to 1963 told the Committee that while there was no specific policy regarding the administration of sedatives to single mothers before the consent taking interview:

It would not surprise me if, as a doctor, I may well have prescribed a sedative either before or after consent taking because the person was upset at what had

⁴³¹ Submission 183

⁴³² Rickarby evidence, 2 September 1998

⁴³³ E. Tischler, Correspondence, 14 March 2000

happened, you know, the distress of actually putting their signature on a piece of paper...I have little doubt that at times the sister in charge of the ward may well have ordered more on the night before consent-taking on the basis that you have a busy day coming up tomorrow, a big decision, therefore you need a good night's sleep.⁴³⁴

8.38 Former adoption practitioners told the Committee that while they had nothing to do with the administration of medication, they would never have taken consent if a mother appeared to be under the influence of a sedative. In evidence, the former Principal Officers of the Anglican Adoption Agency and the Catholic Adoption Agency stated:

The mothers appeared to be quite normal, sad of course and quiet certainly, we never detected any signs of dopiness or peculiarities ⁴³⁵

I certainly accept that so soon after the birth that if the mother was affected by the sort of medication that Dr Rickarby describes, her ability to take in that information could have been limited, no matter how clearly it was presented. But I never would, nor would any member of my staff or any colleague with whom I associated, take a consent where there was any suggestion that the mother was affected by drugs or not able to understand what she was doing.⁴³⁶

8.39 The Committee sought expert advice to assist it to evaluate the mothers' claims. Associate Professor Graham Starmer, an expert on the use of barbiturates from the University of Sydney, was asked to comment on the possible effect of postnatal medication on a mother's ability to give informed consent. The Committee provided the professor with the medical records of three mothers who made a submission to the inquiry, excluding any identifying details.

8.40 After reviewing the records, Professor Starmer concluded that:

All three cases appear to have involved a degree of sedation which would probably be viewed as excessive if such treatment was given today. Besides sedation, patients who receive barbiturates and, particularly benzodiazepines, can experience confusion and memory loss. Moreover, the residual effects of the drugs (hangover) could have rendered the woman less able to comprehend the import of the documents which they were required to sign for discharge and "social clearance". These residual drug effects could also conceivably have eased the process of the separation of the infant from the mother. However, the patterns of drug administration in the three cases which were reviewed are all different and do not permit speculation as to an underlying common purpose. This might well be achieved by a much more extensive review. It should also be noted that many of the drugs which were used 30 years ago have been replaced by less toxic alternatives (e.g. the barbiturates by the benzodiazepines) while others have just "disappeared" (e.g. Mandrax).⁴³⁷

⁴³⁴ Hinde evidence, 25 October 1999

⁴³⁵ Witness J evidence, 20 September 1999

⁴³⁶ McDonald evidence, 2 September, 1998

⁴³⁷ Associate Professor G.A. Starmer, Psychopharmacology Research Unit, Department of Pharmacology, University of Sydney, Correspondence 7 December 2000

- 8.41** While consent takers were not responsible for the administration of medication and may not have been aware of the nature and levels of sedation given, they were responsible for ensuring an adoption consent was, to the best of their knowledge, freely given. The report provided by Professor Starmer raises concerns about the possible effect of postnatal sedation on the ability of a mother to give informed consent. However, as Professor Starmer notes, it would be unwise to speculate on the motivation for giving the medication. It is also possible that the medical records provided to the Committee were atypical and unrepresentative cases. The Committee is aware that high levels of sedation were used generally in obstetrics prior to the mid 1970s. Without a systematic review of medical records, it is not possible to determine the extent and level of medication given differentially, to either married or unmarried mothers. However, research indicates that some of the sedative drugs used have an impact on cognition and memory. This raises ethical concerns over the administration of medication in the period between birth and consent.
- 8.42** The Committee believes that it would have been unethical to have taken consent from a mother who was demonstrably affected by medication. Regardless of the reasons for giving this medication, the Committee believes that it would clearly be unsatisfactory for a person to have received a level or type of sedative medication which could have impaired their capacity to assess their situation and come to a competent decision regarding the future of their child.

Access to the child prior to consent

- 8.43** Many mothers told the Committee that they were not allowed to see their babies until they agreed to sign the consent. Maureen Cameron told the Committee about her experience in 1966.

I continued to refuse to sign the papers and finally, on the ninth day, the social worker told me that if I signed the papers I could see my daughter. All I wanted desperately was to see the daughter that I had given birth to. I signed these papers and was taken to the nursery...I felt as though I had traded my soul for that one brief moment.⁴³⁸

- 8.44** They claimed that as the 'sole' or 'natural' guardian of their child, they should have been granted the same rights to hold and care for their baby as any other mother or parent.⁴³⁹ These mothers' interpretation of their legal rights is essentially correct. Since the late 19th century, English and Australian courts have upheld the principle that the mother of an illegitimate child has the same rights to custody and guardianship as the parents of a legitimate child and that these rights 'arise automatically and naturally on the birth of the child'.⁴⁴⁰ The principle was restated firmly in a NSW case in 1968, *Ex parte Vorhauer; Re Steep*, by Chief Justice Herron:

⁴³⁸ Submission 207

⁴³⁹ Custody is generally understood to mean the physical care and control of a child on a day to day basis. Guardianship is concerned with making long-term decisions concerning the child's life and protecting a child's interests, including carrying out legal transactions on its behalf.

⁴⁴⁰ Bromley P.M., *Family Law*, Butterworths, London, 1966, pp. 387-389

(I) am in agreement with the views there expressed as to the right of the natural mother to custody of an illegitimate child, and do not wish to add anything for myself as to the authority of this Court to enforce such a right in favour of the applicant in these proceedings, if the justice of the case requires it.⁴⁴¹

While the father of an illegitimate child had the right to apply for custody, his claim was generally inferior to that of the mother.⁴⁴²

8.45 As discussed in chapter 6, while the practice of refusing a relinquishing mother access to her child was prohibited by the Health Commission in 1982, it was common in the 1950s and 1960s. The paper accompanying the Commission's 1982 policy noted the possible legal implications of refusing a mother access to her baby:

Refusing the mother permission to see or handle her child prior to signing the consent, or putting obstacles in the way of her asserting this right, may readily be interpreted as duress if the validity of an adoption consent is being contested.⁴⁴³

8.46 Justice Chisholm interpreted this practice similarly:

I think the technical analysis is that that would be quite improper. In fact I think there is the phrase, "other improper means".⁴⁴⁴

Alleged threats to secure consent

8.47 The Committee was told that various threats were made to women to ensure they gave their consent to an adoption. Some mothers allege they were refused discharge from hospital until they had signed the consent. There is considerable documentary evidence to support mothers' claims that hospital authorities insisted on receiving a signed consent as a prerequisite for discharge up until the early 1970s. For example at King George V Hospital in the late 1950s and early 1960s the policy was that

The mother of a baby being placed for adoption or as a State Ward cannot leave hospital until the Ward Sister is notified that the necessary legal and medical procedures have been completed.⁴⁴⁵

8.48 A similar policy was followed by the Royal Hospital for Women in 1972

The patient may not be discharged until consent is signed, except in exceptional circumstances.⁴⁴⁶

⁴⁴¹ *Ex parte Vorhauer; Re Steep* (1968), 88 W.N. (Pt 1) NSW, p.136. See also the historical discussion in *Youngman v Lawson* [1981] 1 NSW LR, p.439

⁴⁴² H. A. Finlay & A. Bisset-Johnson, *Family Law in Australia*, Butterworths, 1972, p.264

⁴⁴³ NSW Health Commission, op.cit., 1982

⁴⁴⁴ Chisholm evidence, 25 October 1999

⁴⁴⁵ Almoner Department, King George V Hospital, c.1950s/1960s

⁴⁴⁶ Social Work Department, Royal Women's Hospital, 1972

8.49 Dr Hinde told the Committee that he would not be surprised if hospital authorities made completion of a consent a condition of discharge because of the 'enormous pressure on beds' in public hospitals in the 1950s and 1960s, although he did not have personal experience of the practice.⁴⁴⁷

8.50 The AASW argued strongly against this practice in the early 1970s:

...some mothers may feel too emotionally disturbed after confinement to make a satisfactory decision. They would like a little more time to adjust to the fact that the baby has been born and that they now feel rather different. – both physically and emotionally. Such time should be available to them...they should not be bound by problems of Maternity Hospital accommodation to make their final decision within a few days of confinement.⁴⁴⁸

8.51 According to Justice Chisholm, refusing to discharge a mother from hospital until she signed a consent would, at the very least, constitute an offence under the Adoption of Children Act:

I think that is duress, no question, and, indeed, depending on what counted as refusing to discharge them from hospital, I would think that would be false imprisonment. I think that is outrageous, but it certainly falls within those words.⁴⁴⁹

8.52 A range of other threats were allegedly made to secure consent. Examples given included threats that unless the woman signed a consent, the baby would be made a State ward or the father of the baby would be removed from the hospital by police or charged with carnal knowledge. Dian Wellfare from Origins told the Committee that women were often threatened with arrest for abandoning their baby if they attempted to leave the hospital before signing the consent. She also said that if a woman continued to refuse to sign, her baby would be taken to an institution.⁴⁵⁰ According to one mother who relinquished her child in 1963:

I was told that if I did not consent to my baby being adopted that as soon as I attempted to leave the hospital ground with my child the welfare would be notified and the child would be placed as a State Ward.⁴⁵¹

8.53 Professor Chisholm told the Committee that informing mothers that they would face criminal charges would constitute either fraud or duress:

I assume that it is just not true that the mothers would be likely to face criminal sanctions as vagrants if they did not consent, and, if it is untrue, then it is unquestionably fraud, trying to get something by a deceitful proposition. If it

⁴⁴⁷ Hinde evidence, 25 October 1999

⁴⁴⁸ Australian Association of Social Workers, NSW 1971, op.cit.

⁴⁴⁹ Chisholm evidence, 25 October 1999

⁴⁵⁰ Wellfare evidence, 25 October 1999

⁴⁵¹ Submission 65

means that the consent takers were actually going to ensure that the mother did face such criminal sanctions, then it would be duress.⁴⁵²

- 8.54** The Committee accepts that in many instances, women were subjected to various forms of coercion to ensure their consent to an adoption was given. There is persuasive evidence that many women were refused discharge from hospital until a consent was signed. Justice Richard Chisholm suggested that the issuing of such a threat would at the very least constitute 'duress' and in some cases the serious offence of false imprisonment. He also told the Committee that the issuing of false threats could reasonably constitute the offence of fraud. The Committee accepts that behaviour such as described by the mothers was both unlawful and unethical.

Information about alternatives at the consent-taking interview

- 8.55** Many mothers believe they should have been advised of alternatives to adoption at the consent-taking interview:

I was suppose (sic) to have been informed clearly, before signing the consent forms, of the support that was available and alternatives to adoption. ...Why wasn't I told this? Who made the decision not to inform me?

- 8.56** Members of Origins suggested to the Committee that social workers were legally required to advise a woman about non-adoption alternatives during the interview:

The law was very clear in stating how a mother had to be offered all alternatives to enable her to keep her child...⁴⁵³

- 8.57** The departmental instructions in the 1950s and 1960s required departmental officers to inform a mother at the consent-taking interview of the assistance available if she decided to keep her child:

So that there will not be any question of misunderstanding or that the mother was misled or uninformed, District Officers ought to explain fully to the mother before taking a consent, the facilities which the Department can offer to affiliate the child; to assist with Section 27 aid or by admission to State Control until the mother is in a position to resume custody and control of the child.⁴⁵⁴

- 8.58** This requirement was also set out in annual reports and other documents produced by the Department during this period. The Committee has no information as to whether non-departmental consent takers were similarly required to raise these alternatives at the time of signing consent. It was not required under either the Child Welfare Act or the Adoption of Children Act.

⁴⁵² Chisholm evidence, 25 October 1999

⁴⁵³ Wellfare evidence, 2 September 1998

⁴⁵⁴ Child Welfare Department, Departmental Instructions, c. 1960s/1960s

8.59 Failure to outline alternatives to adoption during the consent-taking interview would be a breach of departmental guidelines but was not an offence under either of the two adoption statutes in force during the period under review. Presumably, if this omission was revealed, it may have attracted censure from the department but not legal action. The Committee is not able to determine whether departmental officers routinely failed to outline these alternatives at the consent-taking interview. However, the Committee considers that alternatives to adoption should have been raised by departmental officers or social workers well in advance of the consent-taking interview and has considered this practice earlier in the chapter.

Consents signed before minimum prescribed time

8.60 A number of women who relinquished a child prior to 1967 allege that they were asked to sign the consent to an adoption before the minimum time prescribed under the law. The Child Welfare Act did not stipulate when an adoption consent could be taken and so it was lawful to take consent at any time after the birth, including immediately after the birth.

8.61 Under the Adoption of Children Act consent could not be taken on or before the fifth day after the birth, unless there were special circumstances. Therefore, prior to the introduction of the Adoption of Children Act in 1967 an adoption consent could be signed at any time after the birth.

8.62 While taking consents at any time after birth as allowed under the Child Welfare Act was not unlawful, the Committee considers that the practice was unlikely to have been in the best interests of mother and child in most circumstances. As such, the practice raises ethical concerns.

Forged consents

8.63 A small number of allegations were made by women suggesting that their signature on the consent document was forged or improperly witnessed. Mareeta Pratten, who gave birth to her son at Queen Victoria Hospital in 1967, said that she was taken to an office and asked to sign some papers. Ms Pratten said the consent taker:

came from behind the desk and handed me the pen and some papers I don't know what it was but she told me I had to sign it before leaving. Adoption consent was never mentioned.⁴⁵⁵

Ms Pratten stated that the signature on the adoption consent was a "traced signature and NOT signed by me." The Committee viewed the documents but is unable to say whether or not the consent was forged. Another mother told the Committee:

I did not sign the consent to adoption form. However, my name does appear on the form though it is not in my handwriting.⁴⁵⁶

⁴⁵⁵ Submission 63

⁴⁵⁶ Submission 67

- 8.64** However, she did not provide any accompanying documents and so therefore the Committee is unable to verify her claims. If consents were forged, this would constitute a serious breach of the law and of ethical practice. However, the Committee believes that any instances of forgery would not have occurred as part of a systematic attempt to deny large numbers of women their rights, and that the bulk of adoption professionals would not have condoned such practices.

Obscuring part of the consent form

- 8.65** Several mothers told the Committee that part of the consent document they were asked to sign was obscured. Prior to the introduction of the Adoption of Children Act in 1967, the name of the adoptive parents was included on the instrument of consent. In order to protect the identity of the parents, their names were usually covered up by the consent taker. Some mothers were told why part of the form was being covered up. Elizabeth Duncan was told:

You aren't allowed to read this as it has the name of the people who are looking after him.⁴⁵⁷

- 8.66** This practice was clearly discriminatory because until 1967, the name of the birth mother was included on the order of adoption and was therefore known to the adoptive parents. The practice ceased in 1967, in keeping with the greater emphasis on secrecy in the Adoption of Children Act.
- 8.67** The issue has also been raised that obscuring part of a consent document was unlawful. In general, the Committee considers that a person signing a consent document should have been able to view the document in its entirety. However, the Committee understands that if the section that was obscured was not material to the substance of consent, it would not invalidate the consent. It could be argued that seeing the names of the adoptive parents was not material to the act of giving consent and therefore, it was not unlawful to obscure their names. Naturally, it would be unlawful to obscure sections of the document that outlined the nature or purpose of the document.

Revocation of consent

- 8.68** The following section examines the allegations made by mothers regarding the revocation of an adoption consent. Many mothers claim they were either not informed of their revocation rights or were discouraged from exercising these rights.

Information about revocation rights before 1967

- 8.69** Before the implementation of the Adoption of Children Act in 1967, a mother was legally entitled to revoke her consent up until an adoption order was made, which was on average between four and six weeks after consent was taken. However evidence provided to the

⁴⁵⁷ Submission 36

Committee and archival material indicate that mothers were rarely, if ever, informed of this right:

Some workers, recalling their experience from this period, say that they worked within the unstated understanding that the consent was final. Withdrawal of consent was not according to these workers a matter routinely raised with the birthparent....⁴⁵⁸

8.70 Justice McLelland, who presided over the original adoption application in *Mace v Murray*, noted that when Ms Murray agreed to consent to the adoption of her baby she did so thinking that what she was doing was irrevocable and she was not told that she could change her mind.⁴⁵⁹ Indeed, he cited Miss Murray's lack of awareness of her revocation rights as one of the reasons for dispensing with her consent and allowing the adoption of her baby to proceed. Diane Stebbings, a mother who told the Committee about her adoption experience in 1965, was also under the impression that her consent was final:

They omitted to inform me that there was any period of revocation, in fact they said the opposite, that he would cease to be my child upon me signing that document, and that I would no longer be his mother.⁴⁶⁰

8.71 It is therefore not surprising that the number of revocations during this period was very low, a fact noted in McLelland's judgement:

...the number of cases in which consent is revoked is rare. Until the end of 1952, nearly two years had gone by in Departmental cases without any consent having been revoked, although since the publicity of the present case there have been three or four instances.⁴⁶¹

8.72 In fact, the low revocation rate appears to have been seen by the Department as a vindication of their beliefs and practices:

The final episode in the adoption story takes place in the Supreme Court, when the order of adoption is made. This will happen some six weeks later, and in the interim there is the faint possibility that the mother will change her mind and revoke her consent – as happened in the Mace-Murray case. But thanks to the Department's careful discussion with the mother, this is extremely rare.⁴⁶²

⁴⁵⁸ McDonald, op.cit.

⁴⁵⁹ *Re Murray* (1953) 70 WN [NSW] 257 see chapter 3

⁴⁶⁰ Stebbings evidence, 19 October 1998

⁴⁶¹ *ibid*, p. 260

⁴⁶² Adoption in New South Wales, *Progress*, NSW Public Services Board Journal, Vol 3, No 2, February 1964

Should mothers have been informed of their revocation rights?

- 8.73** There was no requirement under the Child Welfare Act 1939 for consent-takers to advise women about their revocation rights. However, according to the Supreme Court Rules consent-takers were obliged to swear an affidavit that the mother had understood the implications of giving consent. Signing a consent to an adoption did not have any legal effect until the adoption application was considered by the Supreme Court. A consent could therefore have been revoked at any time until the adoption order was made by the Court. Thus, one of the implications of an adoption consent, both then and now, is its revocability. If this was not explained or understood, it could be suggested that the consent did not comply with the requirements of the Supreme Court Rules.
- 8.74** The failure to inform women of their revocation rights before 1967 did not appear to attract criticism at the time. For instance, not one of the nine judges who presided over the various stages of *Mace v Murray* commented on the failure of the consent-taker to inform Miss Murray of her right to revoke consent, or on the fact that it was standard departmental practice not to do so.⁴⁶³
- 8.75** The District Officers' Instructions issued by the Department in the 1950s and 1960s were silent on the issue of revocation. There is no evidence before the Committee that departmental officers were required, or encouraged, to inform a woman about these rights. Despite this, it was common practice for departmental and other consent-takers to warn prospective adoptive parents that a mother could withdraw her consent. Yet again, *Mace v Murray* provides a valuable insight into adoption practice in the 1950s. In this case, the baby had been placed with the prospective adoptive parents, Mr and Mrs Mace, before the adoption order was finalised and the Maces were asked to sign a document which said, among other things:
- We fully understand that we have no claim on the said child until the Order of Adoption is signed and in the event of the mother of the said child claiming him we will have no option but to give him up.⁴⁶⁴
- 8.76** The Maces were also informed that the likelihood of their being required to hand back the child was remote.⁴⁶⁵
- 8.77** While very few qualified social workers took consents prior to 1967 they were involved in counselling single, pregnant women in hospitals and maternity homes.⁴⁶⁶ One of the stated aims of casework with this client group was to assist a woman to make up her mind about the future of her child, based on a thorough exploration of the relevant issues and options. As stated above, social workers employed by the Department did not routinely inform their

⁴⁶³ *Re Murray* (1953) op. cit., *Mace v Murray* (1954) 55 SR [NSW] 110; *Murray v Mace* (1955) 92 CL R 370

⁴⁶⁴ *Re Murray* (1954) op.cit., 89

⁴⁶⁵ *Re Murray* (1954) op.cit. 89

⁴⁶⁶ Submission 252

clients about their revocation rights and the Committee considers it likely that social workers in other settings followed this practice.

Change in law and practice after *Mace v Murray*

- 8.78** As noted, the gap between practice and the law highlighted by *Mace v Murray* was a major impetus for the introduction of a set period of revocation in the Adoption of Children Act. However, the Act was not introduced for more than 10 years after the conclusion of *Mace v Murray*. The Committee has not seen any evidence that private agencies, the Department or the social work profession took steps to ensure that women were routinely informed of their right to revoke consent during this time. For example, the Department's instructions and the relevant Supreme Court Rules were not modified during this period and none of the policy documents from private agencies viewed by the Committee shows any change to this aspect of adoption practice.

Committee view

- 8.79** Throughout the 1950s and much of the 1960s mothers remained uninformed about a fundamental aspect of the adoption consent – the right to change their mind. This right continued to be overlooked, despite the lessons that were supposed to have been learnt from *Mace v Murray*. By any standard, this was clearly unethical. The Committee considers it reasonable to expect that a social worker, who was responsible for providing a casework service to a single, pregnant woman, and whose practice was guided by the social work values of client autonomy and self-determination, should have discussed the possibility of revocation with a mother. It may be that in certain cases, depending on individual circumstances, the practice was also unlawful.
- 8.80** It seems particularly unfair that prospective adoptive parents were warned about the possibility of revocation, but the mother was not advised about her own rights. The apparently discriminatory nature of such a practice does not appear to have been commented upon by adoption professionals, including judges, at the time. Given the controversy and the publicity surrounding the *Mace v Murray* decisions, it could be expected that adoption professionals would have been even more conscious of the need to inform mothers about their revocation rights. In the absence of evidence to show that practices changed following *Mace v Murray*, the Committee considers that adoption professionals consistently failed in their duty to inform mothers about their right to revoke consent between the conclusion of *Mace v Murray* and the commencement of the Adoption of Children Act in 1967.

Information about revocation rights after 1967

- 8.81** The Adoption of Children Act introduced a set process for revocation whereby a mother could revoke consent within 30 days of signing a consent or before the day an adoption order was made, whichever was earlier. These rights were outlined on one of two consent documents: Form 9, *Request to make arrangements for the Adoption of a Child*, which was supposed to be read and signed by the relinquishing parent(s) before signing the instrument of consent (Form 7).

8.82 The Committee heard from many women whose adoption experience occurred after 1967 and who allege that they were not informed of their right to revoke consent. A small number of women said they did recall being informed of this right, but they were not given any details of how this could be accomplished:

The only information I was given was that I had 30 days to revoke my consent. At no stage was I given any written material to explain my rights, who to contact to revoke the decision, or any action I could take if circumstances were to change.⁴⁶⁷

8.83 Margaret McDonald told the Committee that the obligation to inform the mother about her revocation rights became an 'almost sacrosanct pillar of practice' after the introduction of the Adoption of Children Act in 1967 and that it would have been unthinkable for her or any other worker to fail to inform a mother of these rights.⁴⁶⁸ This was confirmed by several former adoption workers who appeared before the Committee

I was also very careful to explain to them the facilities for revoking the consent giving them the telephone number and the address of where they had to go to and working out the date before which they had to do that. No one went away without that knowledge.⁴⁶⁹

8.84 Alison Croft told the Committee that while copies of the consent forms were put on a noticeboard at Carramar, she felt, in retrospect, that information about revocation should have been provided to the mothers in writing.⁴⁷⁰ and that mothers may not recall being told about revocation because of the stressful nature of the consent-taking interview.⁴⁷¹ It is possible that the information on revocation was conveyed in a cursory way. Given the emotional circumstances surrounding the consent, social workers should have taken steps to ensure the mother fully understood what she had been told.

8.85 The number of revocations during this period indicates that many women were aware of and did exercise their right to revoke consent. Between 1960 and 1971, 137 mothers revoked their consent to adoptions arranged by the Anglican Adoption Agency, which comprised approximately 7% of the total number of adoptions arranged by them.⁴⁷² Over the same period, 15% of mothers revoked their consent to adoptions arranged through the Catholic Adoption Agency.⁴⁷³

⁴⁶⁷ Submission 282

⁴⁶⁸ McDonald & Marshall, op cit, chapter 3

⁴⁶⁹ Confidential evidence, 20 September 1999

⁴⁷⁰ Croft evidence, 30 September 2000

⁴⁷¹ Submission 85

⁴⁷² Submission 247

⁴⁷³ Wilson evidence, 21 June 2000

An opportunity to discuss revocation before the consent-taking interview

- 8.86** All women should have had an opportunity to find out about and discuss their revocation rights with a social worker well before the consent-taking interview. According to the Adoption Manual produced by the AASW in 1971, where possible the social worker who witnessed an adoption consent should be the same worker who provided a casework service to the mother before her confinement

A casework service is necessary in order to help natural parents come to the most satisfactory decision for their child. It should be used to explore with them the legal situation with regard to the relinquishment of their child – e.g. when their parental rights will actually cease...⁴⁷⁴

- 8.87** Presumably, this would include a discussion about revocation rights. The manual also advised that if it was not possible for the caseworker to take consent, the witness should try to see the mother on at least two occasions: the first time to hand her copies of Forms 9 and 7 and to explain her revocation rights, and the second time to witness the consent. If either of these practices regularly occurred, it would be expected that more women would recall being told about their revocation rights. As discussed in chapter 6, some women did not have an opportunity to discuss their situation in any great depth with a social worker. If a woman did receive counselling, it was often directed towards exploring the reasons for the pregnancy or planning for her future after adoption. In these circumstances it is reasonable to assume that revocation should have been a significant topic of discussion.

Committee view

- 8.88** The Committee accepts that in most cases, consent takers after 1967 would have fulfilled their legal obligation to explain revocation rights at the consent-taking interview. This was required under the legislation, departmental instructions and the AASW's Adoption Manual.
- 8.89** Consent-takers were well aware of the serious consequences that could ensue from failure to carry out this obligation. It is possible that failure to inform a mother of her revocation rights could have been used to challenge the validity of a consent. It could also expose the consent-taker to prosecution for an offence under section 58 of the Adoption of Children Act. The Committee accepts that it is quite possible that a woman who was only informed about her revocation rights at the consent-taking interview, and who was not given this information in writing, might not recall being told about revocation.
- 8.90** However, the majority of women should have been told about revocation rights before the consent-taking interview. As discussed above, under the regulations to the Adoption of Children Act, adoption agencies were required to provide counselling to assist women to make a decision about the future of their child and to understand the legal implications of adoption. This was reiterated in departmental instructions and the AASW Adoption Manual. Presumably, if revocation was explained before the consent-taking interview, there is a greater likelihood it would have been recalled. However, the Committee has seen very little direct evidence that revocation was regularly discussed in this time frame.

⁴⁷⁴ Australian Association of Social Workers, NSW Branch, op.cit., 1971

- 8.91** As discussed in chapter 6, casework offered to single pregnant women during this period was often limited and based on an assumption that the woman had already decided on adoption. In this context, and in the absence of evidence to the contrary, it is reasonable to assume that information about revocation was not routinely raised with mothers prior to the consent-taking interview.

Placing the child during the revocation period

- 8.92** The placement of a baby with the prospective adoptive parents before the expiration of the revocation period was a common practice in both private agencies and the department up until the early 1970s.⁴⁷⁵ Past adoption workers told the Committee that the practice of early placement was strongly influenced by writers such as Bowlby who argued that early bonding and attachment to a consistent mother figure was essential for a baby's healthy development.⁴⁷⁶ As pre-adoptive foster care was rarely available and institutions were considered unsuitable for the care of young babies, early placement was said to be in the best interests of the child

Dr Bowlby's work has demonstrated in a quite spectacular way the effect of maternal deprivation on very young children...Such evidence strikingly illustrates the principle that early adoption (as soon as possible after birth) is in the interests of the baby's mental health. And it is an interesting fact that early adoption, the advantages of which have thus latterly become apparent, has been Departmental practice for many years, the average age of children "allotted" for adoption being less than one month.⁴⁷⁷

- 8.93** Early placement was only considered if the worker firmly believed that revocation was unlikely and the adoptive parents knew the risks involved. According to the Social Work Department of the Royal Hospital for Women, Paddington

The baby is usually placed at about fourteen days old unless the natural mother is very doubtful about her decision when baby may be held for 30 days.⁴⁷⁸

Were mothers discouraged from revoking consent?

- 8.94** Many mothers told the Committee that the knowledge that their child had already been placed with its adoptive parents discouraged them from revoking consent. Their reluctance to disrupt the baby's relationship with its new parents was allegedly reinforced by social workers. A mother told the Committee about her unsuccessful attempt to revoke consent in 1971:

⁴⁷⁵ Child Welfare Department, Annual Report, 1957

⁴⁷⁶ See chapter 2 for more detail

⁴⁷⁷ *ibid.* There appear to have been some exceptions to the rule. For example, up until the early 1970s babies born to mothers residing at Carramar usually remained in hospital for the 30 day revocation period.⁴⁷⁷

⁴⁷⁸ Social Work Department, untitled, Royal Hospital for Women, August 1972

I recall a previous conversation we had when I was four months pregnant. During that conversation she made the point that revoking consent was a terrible thing to do to these people, to take the child back from them. Apparently it was not a terrible thing to do to me. The social workers clients were clearly the adopting parents.⁴⁷⁹

- 8.95** Some mothers claim they were deliberately misinformed about the whereabouts of the child in an attempt to stop them from revoking consent. Mareeta Pratten explained that when she tried to revoke her consent in 1967:

The social worker then told us the 30 day period was only a consideration if the child was still in the hospital and unfortunately our son had been collected by his parents. This was a blatant lie, as he was still in the hospital nursery, only metres away from me.⁴⁸⁰

- 8.96** A former practitioner acknowledged that some women who returned to the adoption agency were discouraged from revoking their consent.

It seems that there were certainly instances where that happened.⁴⁸¹

- 8.97** The Committee considers that while it may be acceptable for an adoption professional to point out the possible negative consequences of revoking consent, any attempt to dissuade a mother or to deliberately misinform her about her rights, would constitute unethical and possibly unlawful practice.

Other sources of pressure

- 8.98** In most cases where mothers claim they were talked out of revoking consent, the allegation is made against a social worker or adoption agency worker. However, one mother informed the Committee about an attempt by solicitors acting for the prospective adoptive parents to discourage her from revoking consent. The solicitor wrote to this woman in 1965 about her decision to revoke consent

Naturally your decision has caused a certain amount of inconvenience and upset for those involved.....It is not our place of course to comment on your decision but naturally where we are involved in matters of this nature every day, we have some experience and knowledge which may be of assistance to you. Should you therefore care to discuss the matter with the writer we will be happy to advise you. Our understanding is that you are only sixteen years of age and we do therefore wonder how it will be possible for you to adequately care and provide for the child and give her the future security which she will need.⁴⁸²

⁴⁷⁹ Witness B evidence, 30 September 1998

⁴⁸⁰ Submission 63

⁴⁸¹ Croft evidence, 30 September 1998

⁴⁸² Submission 306

8.99 In this case, the solicitors acting for the adoptive parents gave advice to the mother in their capacity as experts. However, the advice to the mother reflected the interests of the adoptive parents, rather than her interests. The above excerpt illustrates the conflict of interest inherent in many private adoptions, where consents were often witnessed by the solicitor for the adopting parents and there was minimal supervision of private arrangements by the Department.

The impact of early placement on a decision to dispense with consent

8.100 Under section 167 of the *Child Welfare Act 1939* the court had wide discretion to dispense with the consent of the natural parents to an adoption. This generally occurred if the child had been neglected or abandoned by the mother. However, in at least two NSW cases in the early 1950s, the placement of a child with its adoptive parents was relevant to the decision to dispense with the mother's consent.

The circumstances which I think make it just and reasonable that the consent should be dispensed with are those relating to the manner in which the applicants came into possession of this child. They received the child on the basis that it would become theirs because of the acts and conduct of the natural mother of the child.⁴⁸³

8.101 In the adoption application in *Mace v Murray*, McLelland J followed this earlier judgement, and its emphasis on the relevance of the expectations of adoptive parents:

I am satisfied that the applicants on receiving the child did so in the expectation and belief that an order of adoption would be made in their favour and that the child would thereupon become theirs.....It is quite clear that the applicants, and in particular, Mrs Mace, immediately took the child to their hearts and regarded it and treated it as their own.⁴⁸⁴

8.102 The judges who formed the majority in the Supreme Court appeal in *Mace v Murray* took a different view to Roper and McLelland. The full court suggested that a mother should not be deprived of her child unless it could be shown that she had abandoned or neglected it and that the feelings and wishes of the proposed adopting parents should not be taken into account in a decision about whether or not to dispense with consent.⁴⁸⁵

Neither do the feelings nor the wishes of the adopting parents come in question, and they may be disregarded in considering the reasonableness of the mother's refusal to consent. Thus, in the present case, it may be quite true that the adopting parents have developed an affection for this particular child and are desirous in the extreme of retaining possession of it. But they cannot strengthen their application by arguments on this basis.

⁴⁸³ *Re W* (25 March 1952) unreported

⁴⁸⁴ *Re Murray* (1953) *ibid*, p.259

⁴⁸⁵ *Re Murray* (1954) *op.cit.*, p.98

8.103 Indeed the Full Court was scathing of the Maces' refusal to return the child to the Department as they had promised to do, in the event of the mother revoking consent. However, the decision was overturned by the High Court one year later. The High Court supported McLelland J's emphasis on the relevance of the burgeoning parental affection developing between the adoptive parents and the child in the decision to dispense with consent.

But a problem of a particular kind confronts the court where a mother had made a deliberate decision irrevocably to give her baby, without even seeing him, to others who desire to take him as their own, and has allowed her decision to be known and acted upon over a period in which a virtually parental affection for the child on the part of those who have received him has become deeply rooted. In such a case it is inevitable that the refusal of an adoption order will most bitterly disappoint legitimate expectations on the part of the intending foster parents which the mother herself has been wholly or partly responsible for creating and encouraging.⁴⁸⁶

8.104 It would appear from the above cases, that had the child remained in hospital or been placed in an institution during the period in which the mother was able to revoke her consent, both mothers may have had a greater chance of keeping their babies. The newspapers' account of the dramatic events surrounding *Mace v Murray* were followed avidly by the public, including adoption workers. Those who read the various judgements in this and similar cases would have been aware that placing the child with the prospective adoptive parents was a practice which held considerable risk for a mother who decided to revoke her consent. Yet there is little evidence of any change regarding this aspect of adoption practice prior to the 1965 Act.

The ethics of early placement

8.105 The risks associated with early placement were acknowledged in the 1950s and 1960s. However, these risks were primarily viewed from the perspective of the adoptive parents. For example, early placement might not allow enough time for a complete assessment of the baby's physical and intellectual potential and it could also result in having a 'dearly wanted child' taken away from the adoptive parents.⁴⁸⁷ The impact of such a practice on a mother's capacity to revoke consent did not seem to be a major concern, although it is clearly acknowledged today, as Centacare told the Committee:

One could argue that the reality of a placement could affect markedly a woman's freedom to choose to revoke. In that respect at least the ethics of such a practice are certainly questionable.⁴⁸⁸

⁴⁸⁶ *Re Murray* (1954) op.cit.

⁴⁸⁷ Adoption Services in NSW, *Proceedings of a seminar*, 3 February 1967, Department of Child Welfare, pp.26-27

⁴⁸⁸ Submission 257

8.106 In evidence to the Committee, the Department of Health acknowledged the possible pressure of an early placement on the relinquishing parents' right to revoke their consent but did not think the practice was unethical or unlawful

Ms Smith: Such placements were not a breach of the adoption legislation. The prospective parents would have been advised at the time of the placement that the relinquishing parent had the right to reverse his or her consent within the time period...The practice, although it had ceased by the early 1980s, was not considered unethical. It was based on a belief that the best interests of the child would have been served by placement with the long-term parents as soon as possible.

Chair: Because the department makes the comment that the practice ceased. It seems clear that the department was acknowledging that there was a problem with the practice.

Ms Smith: I think we recognise that a dual issue was involved. The other issue was that if we were placing a child for the purpose of early attachment, the anxiety that rested with the adoptive parents-whether the child was going to remain with them-was also a factor. So I think the two factors were taken into account in our ceasing that practice.⁴⁸⁹

8.107 The practice of placing babies with their adoptive parents prior to the expiration of the revocation period was fraught with risk, for all parties concerned. For this reason, the practice was abandoned by the early 1980s. The Committee accepts that the practice was lawful under both the Child Welfare Act and the Adoption of Children Act. However, it is more difficult to evaluate the ethics of such a practice.

8.108 On the one hand, the importance of early attachment between a baby and a mother figure was considered to be of crucial importance to a child's future development. Before the 1965 Act, many weeks or months could elapse before the finalisation of an adoption order and unless they were placed with the adoptive parents, babies might have remained in hospital or another institution for this period.

8.109 Against this must be balanced the reality in law and practice that early placement reduced significantly a mother's ability to successfully revoke her consent. As a consequence, early placement had an adverse impact on the rights of the mother and possibly the child who may have been denied the opportunity to live with its birthmother. While the practice was apparently well intentioned, it considerably diminished the mother's rights.

Rapid adoption and consent

8.110 Origins told the Committee that mothers were told their babies had died or were systematically denied information about their revocation rights, so as to allow rapid adoptions to proceed:

It is our belief that rapid adoption, because of its sensitive nature, would be a potential reason why many mothers were either told that their babies had died at

⁴⁸⁹ Smith evidence, 27 August 1998

birth or were not being informed that the revocation period as it would stand to reason that no obstetrician would risk having to remove the replacement baby from grieving adoptive parents to return it to the rightful mother should she attempt to revoke her consent.⁴⁹⁰

- 8.111** If a mother was told her baby had died in order to affect a rapid adoption, her consent would presumably not be required. Such an action would undoubtedly constitute unethical and unlawful practice. It would have been extremely difficult for a mother to revoke her consent if she knew her baby had been placed with a woman who had recently lost her own child and this knowledge might well have impeded her right to revoke consent. The practice of rapid adoption could easily have resulted in an unjustifiable denial of the rights and interests of mothers.

Conclusion

- 8.112** Since the introduction of the first adoption statute in 1923, adoption law and policy has been based on respect for the moral and legal rights of all parties to an adoption, including the mother's right to make a free and informed decision about the future of her baby. The importance of the intrinsic bond between a child and its birthparents was acknowledged. However, as this chapter demonstrates, mothers' legal rights in relation to the adoption consent were often overlooked.
- 8.113** The Committee accepts that until the mid 1970s, adoption was seen as a convenient solution to the problem of ex-nuptial pregnancy, and social workers and other professionals were generally unaware of the long-term impact of adoption. While it is likely that workers presented adoption in a positive light, it is not possible for the Committee to conclude whether they attempted to persuade women to relinquish. However, the Committee is confident in concluding that alternatives to adoption were not regularly or fully explained by adoption professionals, despite the fact that they were ethically obliged to do so.
- 8.114** Many mothers told the Committee that their consents were secured as a result of threats or coercion at the time of signing consent. There is considerable documentary and anecdotal evidence that women were not allowed to see their babies or be discharged from hospital until the consent was signed. Some women also suggested that they completed the consent documents while under the influence of post-natal sedatives. There is some evidence to suggest that post-natal medication would have affected some women's ability to give informed consent.
- 8.115** While adoptive parents were warned that a mother might revoke her consent, this information was not adequately provided to mothers prior to 1967. After 1967, it is likely that women were informed of their rights at the consent-taking interview, but this issue was probably not raised or discussed during group or individual counselling throughout the antenatal period. The failure to inform women of their revocation rights at any time during the period under review was a breach of professional ethics. Mothers' revocation rights were further compromised by the policy, albeit well intentioned, of placing a baby with its adoptive parents before the revocation period had expired or placing a baby with a mother whose own

⁴⁹⁰ Graham evidence, 25 October 1999

baby had recently died. Both practices ceased many years ago, in recognition of their potentially traumatic impact on all of the parties concerned.

Chapter 9 The lasting effects of adoption

Prior to the 1980s, there was very little knowledge or understanding of the long-term effects of relinquishment on the various members of the adoption triangle. It was rarely envisaged that the adoption experience of some people would have a lasting effect and that these effects might be felt by subsequent generations. Given this expectation, counselling and support in the post adoption period were virtually non-existent. This chapter examines the immediate and long-term effects of relinquishment on mothers and to a lesser extent, fathers and adopted people. It also discusses access to post adoption counselling and the extent of understanding among professionals of the emotional and psychological consequences of adoption.

The effects of adoption on mothers

- 9.1** For most mothers who participated in the inquiry, the days and weeks following the birth of their babies were extremely difficult. Many women recall experiencing nightmares or insomnia, migraine headaches, restlessness, depression, unpredictable behaviour, and an inability to concentrate and perform their work.⁴⁹¹ As one mother told the Committee:

After I left hospital I was very depressed for some weeks and slept most of the time.⁴⁹²

- 9.2** For some mothers their anguish and distress has never subsided. A mother who relinquished her child in 1970 explained that she is 'never free of the feeling of loss' and that:

The years of unresolved grief are extracting a very considerable price for me. I find that I sleep poorly, I have always been totally protective of my subsequent children, because of my innate fear that something will happen to them and I will lose them.⁴⁹³

- 9.3** One mother who gave birth to a baby girl in 1973 told the Committee that:

My life in the last 25 years has been profoundly effected because of this. I have suffered depression, alcoholism, low self-esteem and suicidal thoughts. ... It took me 15 years to find out what colour hair my daughter had at birth. My heart has been aching for 25 years wondering where she is.⁴⁹⁴

- 9.4** According to Sarah Berryman a 'significant number' of the 8,000 mothers seen by counsellors at PARC since 1991 speak of their battle with mental illness, alcoholism, drug abuse, relationship breakdowns, health and fertility problems. Dian Wellfare from Origins

⁴⁹¹ Submission 182

⁴⁹² Submission 51

⁴⁹³ Submission 103

⁴⁹⁴ Submission 120

told the Committee that while there is no research on the issue, their support group has observed a high incidence of attempted suicide, severe dissociative disorders, chronic depression and anxiety among its membership. Consultant Psychiatrist Professor Rickarby said that in his experience, almost all relinquishing mothers have suffered 'some sort of damage'.

- 9.5** For many women, the impact of their loss has extended to their parents, husband and subsequent children. Their depression and despair is often heightened around special events such as birthdays, weddings, Christmas and Mother's Day. Mr Desmond Arthur told the Committee:

I have seen (my wife) go into depression at the time of her son's birthday. To watch someone you love suffer and not be able to do anything for them apart from comforting them is a most powerless situation...⁴⁹⁷

- 9.6** Not all women continue to suffer long-term ill effects from adoption. A mother who relinquished her child in 1969 told the Committee that while adoption 'is something you cannot forget totally' she believed that as far as her baby was concerned:

given the times then, it was the only decision that I felt was right for him and for me.⁴⁹⁹

- 9.7** Wilfred Jarvis, a psychologist who conducted extensive interviews with single mothers in the 1960s, said that it was unhelpful to say that there must be a permanent trauma associated with an adoption decision.⁵⁰⁰

Expecting mothers to 'put the past behind them'

- 9.8** Until the 1980s most mothers did not receive any counselling or support in the weeks and months after signing the adoption consent. According to one mother who gave birth to a baby girl in the mid 1970s:

There was no counselling afterwards. I was only told that I would feel better, knowing that I had done what was best for her.⁵⁰¹

- 9.9** Once a mother left Carramar Maternity Home, there was little further contact.

495 Submission 120

496 Submission 103

497 Submission 291

498 *Chequerboard*, ABC TV, 1971

499 Forshaw evidence, 29 July 1999

500 Staff briefing, 17 November 2000

501 Submission 283

The files show there was occasionally contact by letter, but, at a time when the mother was in acute grief, there was no follow-up counselling or support offered by the organisation.⁵⁰²

- 9.10** For some women the lack of counselling and support in the post adoption period exacerbated their subsequent feelings of grief and loss. The secrecy and shame accompanying ex-nuptial pregnancy and adoption during this period meant that many women were unable to seek solace from family and friends. One young woman who was 14 years old when she discovered she was pregnant, recalled that:

My parents never spoke about what had happened, they just assumed that I was OK, and wanted to forget it, so a brick wall went up and it was never mentioned again. I had to pretend that it had never really happened.⁵⁰³

- 9.11** The lack of support offered to women post adoption was part of a 'conspiracy of silence' surrounding the adoption experience

(H)istorically there has been a pervasive silence around birth mother grief. There were no rituals to honour the birth or loss of the child and quite often friends and family avoided any mention of the pregnancy or child.⁵⁰⁴

- 9.12** As the Committee heard on numerous occasions, many women were not able to forget what they had been through. Unable to express their true feelings, many mothers experienced what has been referred to as a form of 'disenfranchised' grief.

When grief is disenfranchised it is not openly acknowledged or socially supported, and without the opportunity to express and resolve feelings of loss, bereavement reactions tend to become complicated.⁵⁰⁵

- 9.13** From the 1980s, there was an increased focus on counselling and support, and by the 1990s with the establishment of the Post Adoption Resource Centre (PARC), post adoption counselling was acknowledged as an essential part of the adoption experience. The importance of post adoption counselling is discussed further in chapter 11.

Knowledge of the long term effects of adoption

- 9.14** Many women allege that social workers failed to warn them of the debilitating effects of adoption on their mental health, even though these were generally well known as early as the 1960s. They say they were led to believe that adoption would be the end of the trauma for themselves, not the commencement of lifelong anguish, as it has been for some of them:

⁵⁰² Submission 247

⁵⁰³ Submission 288

⁵⁰⁴ Berryman evidence, 2 September 1998

⁵⁰⁵ Berryman evidence, 2 September 1998

I was further led to believe that within time I would adjust to the loss of my son and would be able to get on with my life...As for the grief and loss they made it sound so simple. I would be able to marry in time and would be able to have other babies. But it wasn't that simple...⁵⁰⁶

- 9.15** Professionals told the Committee that while relinquishment was seen as a difficult and painful experience, they were unaware of the profound and long lasting effects of adoption on some mothers until after the 1970s. A past practitioner from Carramar suggested that "there was little knowledge in the fifties and sixties of the possible long-term consequences of adoption for the relinquishing mother."⁵⁰⁷ According to representatives from PARC, before 1980 there was little understanding of grief and trauma or about the bond that forms between a mother and child during pregnancy.

Little was known about of the long-term effects we now know were experienced by birth mothers and arguably by the adopted person and the adoptive parents.⁵⁰⁸

- 9.16** From the 1960s some social workers and psychologists identified the need for more research into the long-term effects of adoption. In 1968 an adoption professional identified the need for further study of the grief reaction which the natural parent appears to experience some time after adoption of her child.⁵⁰⁹ In 1971 Wilfred Jarvis commented that:

In my view, it's never forgotten that [relinquishment] brings a trauma, guilt, remorse, confusion, regrets, for all people involved in it and therefore this is a most serious and difficult decision for any mother to make.⁵¹⁰

- 9.17** In November 2000, Mr Jarvis told Committee staff that he regrets that some adoption practitioners did not base their practice on evidence:

What they believed was not founded on reliable evidence but on well established prejudices ... I feel sad that many of the people working in the field then were not better informed about the evidence about the best way to help human beings. That could have saved an enormous amount of subsequent agony.⁵¹¹

- 9.18** As noted in chapter 6 the primary concern of many practitioners during this period was to find homes for illegitimate babies and assist a mother to get on with her life. In addition, social workers were often dealing with extremely large caseloads. In such a context, the conduct of academic research was unlikely to have been high priority.

⁵⁰⁶ Submission 122

⁵⁰⁷ Witness K evidence, 20 September 1999

⁵⁰⁸ Berryman evidence, 2 September 1998

⁵⁰⁹ Borromeo, op.cit., p.13

⁵¹⁰ *Chequerboard*, ABC TV, 1971

⁵¹¹ Staff briefing, 17 November 2000

Recognition of the long-term effects

- 9.19** By the mid 1970s there was growing recognition of the long-term effects of adoption on relinquishing mothers. Self help groups such as the Care and Help for Unmarried Mothers and the Association of Relinquishing Mothers provided a voice for many single mothers and gave women who had relinquished a child the opportunity to speak out about their experiences.
- 9.20** By the late 1970s there was a number of studies on relinquishment⁵¹² and in 1984 Winkler and van Keppel published their influential work *Relinquishing Mothers in Adoption: their long term adjustment*. The national study of 213 women found that while not all women experienced negative adjustment, for others the effects of relinquishment could be devastating and long lasting. In particular, the study found that it was inappropriate to view relinquishing mothers as women who have put their problems behind them. The authors recommended better counselling and support for mothers and suggested that the study had broad implications for future adoption practice.⁵¹³
- 9.21** Since 1984, a number of studies have been conducted and books published to confirm van Keppel's findings, including Kate Inglis' *Living Mistakes, Mothers who consented to adoption* and Gabrielle McGuire's *You only have one mother*.⁵¹⁴

Committee view

- 9.22** The compelling and evocative evidence from many mothers during this inquiry underscores the research over the last two decades that adoption for some has been a long-lasting and painful experience. The Committee accepts that many women suffered greatly and continue to suffer as a result of the relinquishment of their child.
- 9.23** The Committee believes that the inadequacy or absence of any support following the adoption consent, and the failure of professionals, family members and the community in general to acknowledge the gravity of the relinquishment has had a deleterious impact on many women. As discussed in chapter 10, appropriate counselling services for mothers and others affected by adoption are required.
- 9.24** The Committee accepts that there was some understanding of the possible long-term effects of adoption on relinquishing mothers prior to the 1970s. During the 1960s adoption workers had begun to identify the profound implications of the adoption decision and the need for further research into the long-term effects of adoption. The Committee believes that professionals should have acted earlier in response to these concerns.

⁵¹² M. Iwanek, op.cit., October 1989

⁵¹³ R. Winkler & M. van Keppel, *Relinquishing Mothers in Adoption*, Institute of Family Studies, Melbourne, May 1984

⁵¹⁴ K. Inglis, op.cit., 1984; McGuire, G., *You only have one mother*, Conference Publication, Springwood, NSW, 1998

9.25 The Committee also accepts the evidence of past practitioners that prior to the 1970s a primary concern was to ensure that the unwed mother was protected from the moral and social stigma associated with ex-nuptial pregnancy. Similarly, adoption workers were keen to provide an immediate and permanent solution to illegitimacy for the child. Many past adoption professionals now regret that they did not question the commonly held presumption that women could put the adoption experience aside.

It is a matter of sincere regret, in the light of what is now known about the long term effects of relinquishment, that social workers as a profession did not earlier and more actively question the assumption that a surrendering mother could, after a period of grieving, put the experience behind her and “get on with her life”.⁵¹⁵

The effects of adoption on other members of the adoption triangle

9.26 While fathers and adopted people did not participate extensively in this inquiry, the Committee did hear from a small number of people from both groups about the effects of their adoption experience. Adoptive parents, like the others parties to an adoption, received very little follow-up or support from adoption agencies after the placement of the child. However, given the very small number of adoptive parents who participated in the inquiry, the Committee is not able to comment on their experience of adoption.

Fathers

9.27 Some men who attempted to support the relinquishing mother continue to feel a sense of loss and grief in relation to their adoption experience. James Wade, who was reunited with his daughter after 38 years, told the Committee about the effect of their extended separation:

38 years is a long time...If the people involved at the time who did not give us any options and did not give us any help could only have realised what it is like to miss out on 38 birthdays, Christmas days, father’s days.

9.28 Another father told the Committee that he has refrained from contacting his son because he does not want to “visit on him any other emotional turmoil in his life” but he still questions the wisdom of this decision.

I wonder whether he wants me to contact him. I have got to live with the misery of having my son, my flesh and blood, not knowing that his father did love him and did care about him. I have to live with wondering whether he is alive or dead.⁵¹⁶

9.29 Professionals now realise that many fathers have suffered as a result of their adoption experience. According to Wilfred Jarvis:

⁵¹⁵ Submission 246

⁵¹⁶ Witness C evidence, 16 June 1999

There's often been an assumption ... that fathers, long term are not greatly bothered about this (adoption). My evidence is to the contrary...⁵¹⁷

- 9.30** McDonald and Marshall note that recent research on fathers' experience of adoption has revealed that the expectation or pressure on men not to talk about their feelings has obscured the pain, guilt and sadness many experience to this day.⁵¹⁸

Adopted people

- 9.31** For many adopted people, their identity has been shaped by the fact of their adoption. As Erika Berzins told the Committee:

Adoption is, and will always be, a part of who I am because it is such a fundamental part of my life experience, and as such adoption will quite often play a part in my attitude to values and belief systems in daily life as well as in response to life's stresses.⁵¹⁹

- 9.32** One adopted person explained that adoption was "at the core of my very being".

It has had more than its fair share into who I am, my life experiences, my personality, attitudes, feelings about myself and about others.⁵²⁰

- 9.33** Kylie Key told the Committee that she went through a confused period during her adolescence trying to come to terms with the fact that she had been relinquished.

I spent a rather rebellious period flitting around from friendship to friendship and generally misbehaving to a point where I would believe that I had gone too far. I felt extremely hurt and misunderstood if I got into trouble. Then I would spend an enormous amount of time trying to prove what a good person I was. My mother was always very generous in giving me any information she could about my birth mother. She told me my birth mother had become pregnant at a very early age and she loved me so much she gave me away. She told me that she had nothing but respect for her. My birth mother loved me so much she gave me away! How many people could say that? She gave me away because she loved me! Love is rejection, love is being left and love is being abandoned.⁵²¹

- 9.34** Several adoptees expressed considerable understanding of the decision made by their mother regarding the adoption.

⁵¹⁷ Staff briefing, 17 November 2000

⁵¹⁸ McDonald and Marshall, op.cit., chapter 1

⁵¹⁹ Berzins evidence, 27 July 1999

⁵²⁰ Submission 227

⁵²¹ Key evidence, 27 July 1999

From **my** opinion about my adoption I feel that it was the right option for both myself and my Mother. As I told her when we first met she was a child (16 years) having a baby. What sort of life would that have been for her, and me!⁵²²

- 9.35** The Committee understands that some adopted people were never told of their adoption and many did not find out until well into adult life. Margaret Watson told the Committee how she discovered this fact.

My husband of 12 years left our marriage in 1990. Two weeks after separating, he informed me he had known for those 12 years of my adoption, having been told about it by my adoptive father a few days prior to our marriage ... I acknowledge it was always the responsibility of my adoptive parents to disclose this truth to me. My adoptive father did not request that my husband keep this information a secret from me.⁵²³

- 9.36** Ms Watson explains the effect of this new found knowledge.

It was a major identity crisis. For four decades I had had an identity; I had grown up with a history that I thought belonged to me. And then I found that, even though that was where I spent my formative years, actually it was all a lie, that I was genetically connected to other people. In terms of the secrecy, it is ironic, because I was raised to be very open and honest. So the revelation of my adoption felt very bitter, knowing that those who had raised me had been very covert and secretive.⁵²⁴

- 9.37** For other adopted people, their experience was complicated by inconsistencies in their birth records. Pamela Clifford told the Committee that while she had a very happy childhood, in 1988 she had a 'burning desire' to find out where she came from. Ms Clifford received non-identifying information about her mother but discovered inconsistencies after their reunion. Many years later Ms Clifford had a DNA test with one of her birth mother's sons and discovered they did not share the same mother. Ms Clifford explained that as her hospital records have not been kept, she has no way of finding out about her identity. In the absence of the relevant records the Committee is unable to investigate how discrepancies like this could have occurred.

The thing that really upsets me is that, it is silly, I will never know when I was really born, I will never know my correct birthday.⁵²⁵

- 9.38** While the Committee did not receive a great deal of evidence on the effect of adoption on adopted people there is some research on issues such as late discovery. In a paper presented at the recent 7th Australian Adoption Conference in Hobart, Lynne Perl explained that a small study by PARC revealed that a significant number of adopted adults who had been contacted by birth family members and had not been aware of their

⁵²² Submission 284

⁵²³ Watson evidence, 27 July 1999

⁵²⁴ Watson evidence, 27 July 1999

⁵²⁵ Clifford evidence, 18 October 1999

adoption until that point. The study revealed that for many late discovery adoptees, “trusting others was difficult, and this affected the ability of participants to form new relationships.”⁵²⁶

9.39 The evidence to this inquiry suggests that some adopted people suffered either as a result of their adoption or as a result of the way in which they discovered they were adopted. However, given the relatively small number of adopted people who participated in the inquiry, the Committee is unable to say whether the evidence presented above is representative of other adoptees’ experiences. The Committee believes that while research into issues such as late discovery is providing counsellors with valuable information, more support is required to assist adoptees and their families to reconcile with their circumstances.

Conclusion

9.40 The failure to understand and acknowledge that adoption has profound and lasting effects on many relinquishing parents and adopted people was a major flaw in adoption practice. As a former adoption practitioner acknowledged, where people are harmed, good intentions are not enough:

... social workers accepted the conventional wisdom that birth mothers would put the past behind them. In this we were misguided. The profession’s good intentions were not sufficient to outweigh the paucity of theory.⁵²⁷

9.41 There is a need to extend our understanding of the effects of adoption on present and future generations to assist people who may feel distress and anguish about their experience. Measures to assist such people are discussed in the following chapter.

⁵²⁶ L. Perl, ‘Why Wasn’t I told?’ making sense of the late discovery adoption, 7th Australian Adoption Conference, Hobart 2000

⁵²⁷ E., Browne, When good intentions are not enough, *Australian Social Work* Vol 51, No 3, September 1998

Chapter 10 Measures to assist people affected by past adoption practices

The evidence to this inquiry demonstrated that there is a current and future need for support for people affected by past adoption experiences. While much of this report has focussed on a discussion of past adoption practices, this chapter looks to the future, and to measures that may assist people. This chapter provides an overview of various measures proposed in evidence and submissions including the provision of appropriate counselling services, support for reunions, and improved access to adoption information. It also examines demands for financial compensation, changes to the Limitation Act, and the abolition of adoption. The chapter considers the need for a formal apology and acknowledgment of the trauma created by past adoption practices, and the importance of public disclosure of past adoption practices.

Counselling and support

- 10.1** The majority of witnesses told the Committee of the great value of counselling for all those affected by past adoption practices, and the need for these services to be widely available and staffed by professionally trained people.

In my opinion, in order to achieve some resolution for the trauma and with a view towards reaching closure, it is vital for birth parents and other members of the adoption triangle to have access to counselling by skilled adoption workers no matter what the ability to pay.⁵²⁸

- 10.2** There are currently several ways in which people can access counselling and support services. The establishment of the Post Adoption Resource Centre (PARC) in 1991 to coincide with the introduction of the NSW *Adoption Information Act 1990* has significantly improved the availability of counselling. PARC provides services and resources for adoptees, birth parents, adoptive parents and any others affected by adoption in NSW. In their submission PARC explained:

The bulk of our work ... is listening to and counselling, over the telephone and face-to-face, those upon whom an adoption has had a profound impact. ... In total we have had 31,078 counselling calls (to end April 1998) in the past 7 years, with an average of 54% of these being new clients.⁵²⁹

- 10.3** The major functions of the Centre are to provide information, individual and group counselling, an intermediary service and a library service. PARC is not a crisis counselling service but is able to advise people of the various crisis services available such as LifeLine and the Department of Health's Mental Health Crisis Team. As explained below, they also provide services in rural and regional areas and assistance with reunion information. The

⁵²⁸ Submission 68

⁵²⁹ Submission 244

Centre has a range of resource material on post adoption issues including information videos, booklets and a monthly newsletter, *Branching Out*. The Centre currently provides counselling via e-mail and is investigating the establishment of chat rooms, and group counselling sessions on the Internet.

- 10.4** The Post Adoption Resource Centre is a valuable resource centre for information on counselling and support. For the last ten years PARC has provided a specialised service for the people of this State, and in that time has identified the need for improvements in adoption information provided to counsellors, health workers, and those in regional centres.
- 10.5** The support group Origins has been critical of aspects of the services provided by PARC, and has raised concerns with the Committee about the current information available on adoption and related issues.
- 10.6** There is an immediate need for accessible information for all people adversely affected by adoption including information on the availability of appropriate counselling. The Committee believes that the development of a post adoption resource kit would address this specific gap in the current resources available and would assist a large number of people. It is essential that the contents of the kit include information to assist all persons affected by adoption, and in particular birth parents, adoptees, adoptive parents and their families. The Committee believes that PARC, as this State's specialised service in post adoption counselling and support, is the most appropriate organisation to co-ordinate the development of the kit. The NSW Standing Committee on Adoption and Permanent Care has representatives from support groups, private adoption agencies and government departments and therefore should be directly involved in the production of the resource kit.

Recommendation 1

The Department of Community Services should provide funding to the Post Adoption Resource Centre to co-ordinate the provision of a post adoption resource kit. The content of the post adoption resource kit should be determined in consultation with the NSW Committee on Adoption and Permanent Care, the Department of Community Services, and the Department of Health.

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- 10.7** As discussed in chapter 9 many mothers and some fathers who relinquished a child to adoption continue to suffer from past practices, and the subsequent failure to provide appropriate counselling. Mothers told the Committee about their battles with alcoholism, drug abuse, relationship breakdowns, chronic depression and severe dissociative disorders. The post adoption resource kit should provide relevant information on the appropriate treatment and support necessary for mothers and fathers who have relinquished a child to adoption.
- 10.8** A number of adopted people told the inquiry about the impact of adoption on them. For many, being adopted is a central and important part of their identity. The Committee understands that adoptees have specific needs, particularly as they relate to late discovery.

The post adoption resource kit should include information appropriate to the counselling and support needs of adopted people.

Recommendation 2

The post adoption resource kit, referred to in Recommendation 1, should contain information regarding support and counselling for parents who relinquished a child to adoption and information regarding support and counselling for adoptees.

- 10.9** Private adoption agencies also provide post adoption counselling to mothers, fathers, adoptees and their families. According to agency practitioners, counselling support for mothers is crucial.

Our experience shows that grief counselling after the event is all important to a mother in helping her to cope with her life.⁵³⁰

In some cases, these women have had no support, counselling or follow up in all the years that have elapsed since their adoption experience.

- 10.10** A Centacare representative explained that their counsellors had “a strong commitment to providing counselling/mediation” and that they were often assisting people to come to terms with their adoption experiences. Post adoption work may also involve arranging and providing counselling in reunions. Some practitioners believe that despite its importance, post adoption work within the agency is not adequately funded.⁵³¹

- 10.11** The Department of Community Services’ Family Information Service provides a range of services for people involved with adoption. These include maintaining the reunion and information register and assistance with the reunion process. Trained counsellors with the Service also provide telephone counselling to birth parents and limited face to face counselling. The Family Information Service also refers to PARC those people who need more in-depth support and other services.⁵³²

- 10.12** The NSW Department of Health also provides a network of support and counselling services. The Deputy Director General, Policy, Dr Smyth told the Committee that these services are available through hospitals, as well as at the 200 community health centres across the State. Dr Smyth also suggested that women should consider seeking assistance from their general practitioner and that the Department would:

encourage women who are experiencing distress to seek assistance from persons they have confidence in and they have trust in.⁵³³

⁵³⁰ Croft evidence, 30 September 1998

⁵³¹ Submission 257

⁵³² Milson evidence, 27 August 1998

⁵³³ Smyth evidence, 27 August 1998

Shortcomings experienced

10.13 A number of witnesses had sought counselling from their general practitioners and from specialist psychologists and psychiatrists. These witnesses related varying degrees of success with dealing with their depression, grief and sense of guilt. Several of them felt that the cost of these specialised services was prohibitive. A small number of women also said that they did not want to use the services of PARC because of its past association with adoptions. The centre is located in Scarba House, which previously housed the Benevolent Society Adoption Agency, and some of its staff are former adoption professionals.

10.14 The Senior Manager Sarah Berryman told the Committee that PARC “is aware and very sensitive to the fact that some birth mothers do not want to come to Scarba House because of its past history”. Therefore, PARC offers alternative venues for counselling, including home visits. Ms Berryman told the Committee of the measures employed by PARC to cater for the different needs of its clients.

PARC believes in being open and transparent about our practice. We are open to receiving feedback and we have a very clear complaints procedure. A person approaching the service will be given a choice of counsellors, each of whom is open about her qualifications and her experience. Referrals to alternate counsellors or support services is available.⁵³⁴

10.15 The Committee also heard favourable comments from mothers and adopted people about the services provided by PARC.

I also acknowledge the professionalism, knowledge and support of the staff of the Post Adoption Resource Centre who also helped facilitate my reunion, with the Child Migrant Trust ... They have been a great assistance to me.⁵³⁵

10.16 The Committee supports the work of the Post Adoption Resource Centre and believes the organisation has an important role to play in the continued provision of post adoption support, counselling and information. The Committee believes neither the establishment of duplicate services nor the removal of PARC from its current premises are warranted. The Committee accepts that some mothers are reluctant to access PARC services, however PARC counsellors are sensitive to these issues and are willing to refer these mothers to alternative counsellors and venues. It is important that all counsellors have access to accurate and up to date information about the needs of people suffering distress as a result of adoption. The Committee believes that the post adoption resource kit discussed above would greatly assist counsellors and others in providing appropriate information and support to people affected by adoption. As discussed above, PARC is not a crisis service but can advise people of the most appropriate service to their needs. The Committee believes these crisis services should have access to the post adoption resource kit.

⁵³⁴ Berryman evidence, 2 September 1998. Please note Ms Berryman has changed her name to Ms Armstrong.

⁵³⁵ Watson evidence, 27 July 1999

Recommendation 3

The Department of Community Services should ensure that the post adoption resource kit referred to in Recommendation 1 is distributed to all counsellors providing support and assistance with adoption and related issues, and to crisis services.

The importance of support groups

- 10.17** Support groups offer a valuable service for people looking for support from those with similar experiences, and for people who are reluctant to access professional assistance. Since the 1970s, support groups or self-help groups have assisted people affected by adoption and have played a major part in the radical changes to adoption practices.⁵³⁶ Bessie Knox from Adoption Triangle explained the importance of support groups.

It is in this forum that people are able to talk openly about themselves and know that there is a true understanding of their feelings, not judgement, and above all, that they feel safe. It seems that the need for support groups will go on for a long time ... It is a relief when they can sit in a group where people nod their heads and say, 'Yes I know how you feel'.⁵³⁷

- 10.18** Many mothers also emphasised the importance of support groups in providing them the opportunity to share similar experiences.

After 33 years of silence I am now able to talk to other women who have suffered as I have and the mutual support has afforded some measure of healing.⁵³⁸

- 10.19** The Committee understands that there are a number of existing support groups and that people affected by past adoption practices seek out the most appropriate support group for their needs. These support groups often struggle to meet basic running costs and the Committee understands that during this inquiry at least one support group was forced to disband. In addition, these groups often conduct their own research and counselling and do so at members' own expense. The Committee believes that, as there are a number of support groups catering to different needs, and because these needs may change over time, it would be inappropriate to provide recurrent financial assistance to a limited number of groups. However, in recognition of the importance of their work, the Committee believes that an on-going program of specific project grants to support groups for tasks such as training, rural outreach programs, research and writing projects should be established.

⁵³⁶ A discussion of the development of support groups for mothers can be found in chapter 4.

⁵³⁷ Knox evidence, 29 July 1999

⁵³⁸ Submission 89

Recommendation 4

The Minister for Community Services should establish a program of specific project grants for NSW parents support groups for the purpose of providing financial assistance for projects related to counselling, training, research and writing on the impact of adoption.

Services in rural and remote areas

- 10.20** People in non-metropolitan, rural and remote areas have minimal access to professional counselling. Erica Berzins, an adopted person who has been active in the adoption community for several years, told the Committee that:

In country areas there are rarely professionals trained in or with knowledge of adoption and adoption-related issues. Country people are reliant on phone counselling and written material from Sydney and a very occasional visit from Sydney professionals.⁵³⁹

- 10.21** As part of its brief to provide services to regional NSW, PARC offers assistance to people outside of Sydney. This includes making regular visits to regional centres to consult with local support groups and to assist new groups to become established, as well as hosting information meetings for people affected by adoption and professional development workshops for health and welfare professionals. PARC also provides a NSW toll free number which may be used to access information and counselling. Despite these initiatives, PARC acknowledges that:

There are many birthparents in rural and regional New South Wales who have no access to any kind of counselling support in their region and we certainly support a need for counselling support to be increased in regional New South Wales.⁵⁴⁰

- 10.22** Representatives from PARC proposed that, with funding support, it could alleviate this situation by conducting more training of local counsellors across regional NSW to provide post adoption counselling.⁵⁴¹ This suggestion was also supported by the NSW Branch of the AASW. As noted above, support groups play a key role in assisting people to come to terms with their experiences of adoption and the Committee understands that there is a particular need for the establishment of support groups in rural and regional NSW. The Committee is aware of rural outreach programs in other States such as the program organised by the South Australian branch of the Association Representing Mothers Separated From Their Children By Adoption (ARMS).⁵⁴²

⁵³⁹ Berzins evidence, 27 July 1999

⁵⁴⁰ Berryman evidence, 2 September 1998

⁵⁴¹ Submission 244

⁵⁴² For more information, see ARMS (SA) How best to meet the needs of adults in Australia whose lives have been affected by adoption, in op.cit., Hobart 2000, pp.155-164

- 10.23** The Committee acknowledges the crucial importance of counselling and support for women and in some cases families, who are affected by past adoption practices; there are clearly gaps in services in rural and regional NSW. The evidence has demonstrated clearly that failure to meet the needs of people affected by adoption has had a profound and long-lasting effect on their well-being and mental health. Resources should be made available to ensure that adequate counselling services are available in rural and remote NSW. The Committee therefore believes that there should be a designated worker within PARC to engage in projects related to the delivery of post adoption support and counselling services in regional NSW. The worker would be responsible for identifying the areas of need for services, training counselling and support staff in rural and regional areas, and assisting with the establishment of support groups.

Recommendation 5

The Department of Community Services should provide additional recurrent funding to the Post Adoption Resource Centre to create a designated position for rural and regional NSW.

Recommendation 6

The Department of Community Services should provide funding for travel and related expenses to ensure adoption counselling and support services in rural and regional NSW have face to face contact with the designated worker.

Reunions

- 10.24** Prior to 1990 there were only limited opportunities for reunions. The Department of Family and Community Services did not release identifying information, such as birth and marriage certificates, and this made the location of people separated by adoption very difficult. In 1976 the Department established a Voluntary Person's Contact Register which allowed reunions to occur through the Department, but only if both parties registered with the service (see chapter 4 for details).
- 10.25** The *Adoption Information Act 1990* gave all birth parents and adoptees the opportunity to access birth and marriage certificates and make contact. However restrictions regarding contact are in force if the adoptee is under the age of eighteen, or if either party has placed a contact veto.
- 10.26** The *Adoption Information Act 1990* established a system of contact vetos for adoptions that occurred before assent of the 1990 Act where the Order of Adoption was made in NSW under the *Adoption of Children Act 1965* or made elsewhere and recognised under that Act. The *Adoption Act 2000* retains this provision. The contact veto system was considered necessary to protect the rights of those people who had been given an undertaking that the information about the adoption would remain secret. The 1990 Act included a provision for the system of contact vetos to be reviewed ten years after the assent of the Act. Section 29 of the 1990 Act required that the Director-General report to the Minister on whether

the contact veto register should be closed. In 1995 this clause was repealed leaving open the question of whether the contact veto system would remain in place indefinitely.

- 10.27** The experience of reunions is a highly complex and emotional issue. While the majority of people arrange their own reunions with only minimal assistance and advice, some people need considerable support and assistance. The majority of submissions from mothers, fathers and adoptees included stories about the reunion experience.

I am truly fortunate to have the love and support of my daughter. She is now 37 years old and initiated contact in 1991. We have worked together carefully to build a relationship appropriate to our individual needs. At times we have encountered difficulties, but our connection has remained intact, and our relationship is still growing.⁵⁴³

- 10.28** The Committee notes that adoption-related issues, such as reunions and information about biological heritage, will be important to the grandchildren of mothers who have relinquished a child for adoption, as well as subsequent generations. Some mothers emphasised the importance of establishing a relationship not only with their children, but also their grandchildren.

In February 1994 my daughter and I met at last. We are in touch by phone, and one day I may get to know my two little grand-daughters.⁵⁴⁴

- 10.29** The Committee heard from some mothers that while the reunion was successful, the experience of meeting their child did not remove the feelings of hurt.

I am delighted to advise that my daughter and I were reunited in 1995. Whilst our reunion has been wonderful and complete in every way, I still deeply mourn for those early days when she was a baby, and I was unable to love and nurture her the way most birth mothers do.⁵⁴⁵

We had a reunion in 1998 after corresponding for a time with the occasional phone call. The pain will always be there, but it is much easier to bear now I know where she is and that I can contact her at any time.⁵⁴⁶

- 10.30** A significant number of mothers told this inquiry that their experience of a reunion was a disappointing one.

I have met my daughter only to find that she holds me responsible for discarding her, and does not want anything to do with me.⁵⁴⁷

⁵⁴³ Submission 68

⁵⁴⁴ Submission 89

⁵⁴⁵ Submission 56

⁵⁴⁶ Submission 113

⁵⁴⁷ Submission 33

10.31 Others found the contact veto difficult to cope with.

When the laws changed I found where my son was living, but was sent a letter to say a Contact Veto had been placed against me. I guess that was pretty final he hated me for what I had done to him.⁵⁴⁸

10.32 The Committee understands that it is not uncommon for parties to hold conflicting views about what they want from any future relationship. For some mothers the initial contact and the knowledge that their child is safe is sufficient for them to feel satisfied and at peace. Some children who were given up for adoption are content with their adopted family and do not seek a continuing relationship with their birth parents. For a variety of reasons, contact may not be maintained beyond the initial period.

I had always believed that once I could find my child and reunite with him, I would finally find some peace of mind. I decided to begin a search for my son. We exchanged letters and photographs, at which time we were reunited in person. Our relationship seemed to be going well, and we spoke fortnightly. However during a visit (at his invitation), his attitude towards me suddenly changed, and he has since ceased all contact without reason or explanation.⁵⁴⁹

10.33 For most adoptees the reunion is a culmination of searching for identity, to find someone with whom they share a biological history, and someone who may “look like me”. Adoptees have explained that this has nothing to do with whether the adoption has been good, bad or indifferent, but it is a need to find themselves and to have a background. An adoptee, Erika Berzins, told the Committee about what reunion meant to her.

As an adult in reunion, adoption meant that I again had to redefine myself, having gained a new knowledge. It meant that I had to find a position for all these family members in my life and that I still had to deal with unanswered questions and secrets, and their insecurities as well as my own. However it also brought enormous value to my life to be able to share in my birth parents' lives as well as the lives of my adoptive parents and each of their families.⁵⁵⁰

10.34 The Committee understands that reunion also affects other members of the family. In the case of one woman going through a reunion with the daughter she relinquished, there was also an impact on her other children.

Counselling was available to my children through school counsellors. My second daughter did avail herself of this a few months after the reunion. I went and saw the counsellor with her once and the counsellor suggested some family counselling.⁵⁵¹

⁵⁴⁸ Submission 82

⁵⁴⁹ Submission 122

⁵⁵⁰ Berzins evidence, 27 July 1999

⁵⁵¹ Roscoe evidence, 27 July 1999

The need for continuing support with reunions

- 10.35** As the legislation is only ten years old, knowledge of the impact of reunions on people in this State is relatively limited. The Post Adoption Resource Centre has contributed to the information on adoption search and reunion issues, and has prepared booklets, pamphlets, and a video, *The Path Ahead*. The video provides information on the process of reunion and the experiences of people who have searched and had contact. The NSW Committee on Adoption and Permanent Care has also published accounts of reunion experiences, the most recent being *Down the Track*, published in 1999. There is a growing international interest in the reunion process as demonstrated by the number of papers on reunion at the most recent adoption conference held in Hobart, *Putting the Pieces Together*, and in particular Julia Feast's paper on adoption, search and reunion.⁵⁵²
- 10.36** While many people experience extreme joy at and after the reunion, others experience on-going feelings of grief, anger, abandonment and guilt. There has been limited research undertaken in NSW on the effects of the 1990 legislative changes, and on the impact of reunions on birth parents, adoptees, adoptive parents and other relatives. The Committee believes there is an immediate need for research into the outcomes of the Adoption Information Act, and in particular the reunion process and its impact.

Recommendation 7

The Minister for Community Services should provide funding for a major independent research project on the reunion process and the short- and long-term impacts of reunion on adoptees, birth parents, adoptive parents and their families.

Review of contact vetos

- 10.37** The Committee accepts that some people are not ready for the reunion process to begin, and therefore the contact veto is a desirable measure to allow for protection from contact with the other party to the adoption. However, there is a view that the current contact veto arrangements are too restrictive and do not take into account the possibility that the desire for a veto may change over time.⁵⁵³ As explained above, the *Adoption Information Act 1990* established a system of contact vetos for adoptions that occurred before assent of the 1990 Act and the *Adoption Act 2000* retains this provision. The 1990 Act reflects the importance now attached to contact between birth parents and adoptive children as part of the adoption experience.
- 10.38** So far as the Committee is aware, there have been no prosecutions for breaches of the contact veto since its introduction with the Adoption Information Act. The Committee understands that the vast majority of people do not breach the contact veto. The Standing

⁵⁵² J. Feast, *Adoptive People's Search for Identity & Reunion*, op.cit., Hobart 2000, p.1-13

⁵⁵³ For further discussion, see Report 69, Review of the Adoption Information Act, NSW Law Reform Commission, July 1992, pp.183-189

Committee on Social Issues report in 1989 on *Accessing Adoption Information* recommended that the contact veto system should cease on 1 January 2000. The *Adoption Act 2000*, however, provides for contact vetos with no period of renewal; hence all vetos remain in place indefinitely. The Committee notes that Part 4, Clause 161 of the new Act allows for the Director General to approach the person who has refused contact under a contact veto to ask whether they wish to confirm, cancel or vary the contact veto.

- 10.39** The Committee understands that a recent review of arrangements in New Zealand showed that very few people who had placed a contact veto renewed that veto.⁵⁵⁴ The veto arrangements in other Australian States vary. Section 27B of the South Australian *Adoption Act 1988* provides for the limitation of the right to obtain information which has effect for a period of five years. After five years, the veto must be renewed or it will lapse. In the Victorian *Adoption Act 1984* there is no provision for contact vetos.
- 10.40** The Committee believes that administration of contact vetos should be reviewed. Arrangements for contact vetos in this State appear to be inflexible by comparison to arrangements in other jurisdictions. Because a contact veto can be highly distressing for some people, and research shows that a proportion of people when asked do not wish to renew their contact veto, it would seem appropriate to establish a system of regular reviews of contact vetos. This could be done by amending the *Adoption Act 2000* to require the Department to periodically contact all people who have lodged a contact veto asking them whether they wish to retain or revoke the veto. The veto would only be removed if the person who lodged the veto responded by stating that they wished it to be revoked.
- 10.41** An alternative system would be similar to that in South Australia, whereby automatic cancellation would occur after a fixed period of time unless an optional renewal is exercised. In this case, the onus would be on people who lodge a contact veto to maintain the veto after a substantial period of time has elapsed.
- 10.42** Moving to a system of periodic review of contact vetos would substantially change the existing contact veto system and would require amendment to the *Adoption Act 2000*. The Committee therefore considers that consultation with relevant groups and agencies should take place with a view to determining whether a review is required.

Recommendation 8

In consultation with relevant interest groups, the Department of Community Services should review the current contact veto provisions of the *Adoption Act 2000* with a view to establishing procedures for periodic review of contact vetos. The review should consider whether it is appropriate to establish procedures for renewal and/or cancellation of contact vetos.

⁵⁵⁴ For more information, see New Zealand Law Commission, Preliminary Paper 38, *Adoption: Options for Reform*, October 1999

- 10.43** The lack of consistency between the States and Territories in relation to contact vetos presents particular problems for people who have relatives living in other States. The Committee considers that uniform contact veto procedures are desirable to ensure that people have the same rights to information regardless of where they live in Australia.

Recommendation 9

The Minister for Community Services should contact her counterparts in all other States and Territories with a view to establishing uniform law and procedures in relation to contact vetos.

Reunion services for Aboriginal people

- 10.44** As explained in the Introduction to this report, this inquiry has not considered in detail the adoption experiences of Aboriginal people. While the Committee did not receive evidence from Aboriginal women who had relinquished a child to adoption, the Committee believes it is appropriate to comment on post adoption support for Aboriginal people.

- 10.45** Link-Up (NSW), established in 1980 for Aboriginal adults who were separated by removal, separation, adoption or fostering, assists people to find their immediate family and reunite them. The *Bringing them home* report identified that for indigenous people:

Reunion is important but very difficult because of the way in which the removal policies were administered. Prior to the establishment of Link-Up most people were not aware of the family records that might provide clues to their identity. Accessing those records was difficult. Between 1980 and 1994 Link-Up (NSW) ... reunited more than 1,000 individuals.⁵⁵⁵

- 10.46** Since 1994 many more Aboriginal people, particularly adoptees, have used the organisation to locate their families. Link-Up (NSW) suggested that some of the relinquishing mothers who contact their organisation have difficulties associated with reunion.

They not only need to deal with the impact of the child coming back into their lives and making an approach towards having some kind of contact, but they also have to deal with how to tell the family.⁵⁵⁶

- 10.47** The NSW Government provides between 15-20% of funding for Link-Up (NSW), with the remainder provided by the Commonwealth through the Aboriginal and Torres Strait Islander Commission (ATSIC). The NSW Department of Community Service funds one case worker, and the NSW Department of Corrective Services funds a case worker to work

⁵⁵⁵ Human Rights and Equal Opportunity Commission, *Bringing them home, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, April 1997, p. 357

⁵⁵⁶ Hermeston evidence, 25 October 1999

specifically in NSW prisons. The latter position was created as a result of the recommendations of the *Bringing them home* report. In addition to this, the Committee understands that also as a result of the recommendations made in *Bringing them home*, the NSW government have contributed considerable funds as one-off grants to assist Link-Up in the provision of services. The Federal government have also increased their funding as a result of the report with particular assistance with information technology resources.

10.48 The increased funding has been appreciated by Link-Up (NSW). However, the Committee understands there is a continuing need for resources, particularly funding for case workers providing counselling and support for Aboriginal people. While the Post Adoption Resource Centre provides assistance and support to both non-indigenous and indigenous people affected by adoption, the majority of Aboriginal people access Link-Up (NSW). The service provides support and assistance for reunions within the context of understanding the unique and specific issues relating to the forced removal of Aboriginal children, and the impact on indigenous individuals, families and communities.⁵⁵⁷

10.49 According to the *Bringing them home* report, while Link-Up (NSW) is committed to assisting all aspects of reunion:

This Inquiry however is not satisfied that the funding they receive adequately takes the needs for cultural renewal and reunion into account.⁵⁵⁸

10.50 Link-Up (NSW)'s case work load has increased significantly since the release of the *Bringing them home* report, and it is expected that demand for these services will continue to increase. The Committee applauds the NSW government's response to the need for additional services by creating a position for case work in NSW gaols. However, in light of the increasing need for post adoption support with family tracing and reunions the Committee believes that the NSW government should review the current funding arrangements for Link-Up (NSW) with regard to staffing resources for counselling and support case work. This review should take into consideration the Senate report, *Healing: A Legacy of Generations*.⁵⁵⁹

Recommendation 10

The NSW government should review the current funding arrangements for Link-Up (NSW) to ensure that current funding levels for support, counselling and reunion assistance for indigenous people affected by past adoption practices are sufficient.

⁵⁵⁷ For more information on these issues, see *Bringing them home*, op.cit., April 1997

⁵⁵⁸ *ibid*, p. 367

⁵⁵⁹ Senate Legal and Constitutional References Committee, *Healing: A Legacy of Generations*, Commonwealth of Australia, November 2000

Access to identifying information

- 10.51** Under the provisions of the *Adoption Information Act 1990*,⁵⁶⁰ adult adopted persons and the birth parents of an adopted child are able to access identifying information about a party to an adoption. In many cases access to 'origins' information is recognised as a crucial element in the healing process for people affected by adoption.
- 10.52** Adoption professionals and mothers told the Committee there were significant barriers to accessing identifying information and one of the major barriers is cost. To access this information, a person must first obtain a search or supply authority⁵⁶¹ from the Family Information Service of the Department of Community Services. A fee of \$135 is payable to the department at the time of application.⁵⁶² The fee also covers the cost of a range of services provided by the Department including registration on the Reunion and Information Register, \$65; access to identifying information (prescribed information) from departmental files, \$50; attendance at an information meeting and a copy of a Search Guide, \$35.⁵⁶³
- 10.53** Centacare told the Committee that if a client's prescribed information is held by another agency, he or she may write to the Department stating that they only require the Supply Authority and requesting only to pay \$35. However, Centacare believes that this should be a 'routine' option for clients, not a request which has to be 'specially argued'.⁵⁶⁴ The availability of this option is not explained in the Department's 'factsheet' on how to apply for a supply authority. It is therefore likely that many people are not aware of the fact that they do not need to pay for the entire package of services provided for the Department's \$135 fee.
- 10.54** After securing an authority to search, most people would proceed to contact one or more of the following agencies: the Registry of Births, Deaths and Marriages; the hospital where the birth occurred; the agency or solicitor responsible for arranging the adoption; and the Supreme Court registry.
- 10.55** In addition to the cost of the supply authority, most of the above-mentioned agencies impose a charge to cover the cost of searching and retrieving documents. For example, the Registry of Births, Deaths and Marriages charges \$26 for a copy of a certificate and will conduct a search of marriage and death records for \$26 for each ten-year period. However, in adoption matters, where searches may be required for the past twenty or thirty years, the registry charges a maximum fee of \$40. While the actual cost to the Registry may be higher,

⁵⁶⁰ These provisions are re-enacted in the *Adoption Act 2000*

⁵⁶¹ A supply authority is proof that a person has made a valid application under the Adoption Information Act to search for previously closed adoption and medical records.

⁵⁶² Department of Community Services, *Factsheet*, Family Information Service, April 1998. People in receipt of certain Commonwealth pensions and benefits may be eligible for a fee reduction of between \$75-\$100

⁵⁶³ *ibid.* A discount on the individual costings is offered for the package.

⁵⁶⁴ Submission 257

the cost of these searches are covered by cross subsidies from other revenue sources.⁵⁶⁵ Adoption agencies generally do not charge a fee for origins work, although they may request a donation in an attempt to cover costs. On occasions, the Post Adoption Resource Centre has provided assistance with fees, but this assistance is dependent on donations received by the Centre.

10.56 The Committee heard from many people who feel they should not have to pay for records relating to their adoption or birth.

I'd hate to think how much time and money I've spent trying to get as much information and copy of records I knew about.⁵⁶⁶

...I know that there are people who would like to trace their adopted children but who cannot afford to pay the cost for the supply authority and all the rest. If the current governmental policy is "user pays", then I would suggest that we who have been affected by adoption have already paid and should not have the added indignity forced upon us of having to pay financially any more.⁵⁶⁷

10.57 According to Centacare there is a strong case that these services should be provided free of charge⁵⁶⁸ and this view is widely supported by other adoption professionals, adoption agencies and support groups.

10.58 The Committee understands that the cost of accessing identifying information imposes a significant barrier for many mothers and adoptees who are searching for information about their origins. In addition, many people object to paying for information which they feel should never have been concealed from them in the first instance.

10.59 Where possible, mothers and adoptees should not be expected to pay more for access to official information about themselves than those people not affected by adoption. The standard fee for a copy of a birth, death or marriage certificate is \$26. However, a supply authority provided by the Department of Community Services is \$35. The Committee believes that the fee for the supply authority, as well as the additional costs detailed above, should be abolished. Such an initiative would reduce the costs involved in adoption searches and would demonstrate clearly a commitment to reducing the disadvantages felt by many people affected by the secrecy imposed by past adoption practices.

Recommendation 11

The Department of Community Services should waive the fee for the provision of a supply authority by the Department of Community Services.

⁵⁶⁵ Taylor evidence, 16 June 1999

⁵⁶⁶ Submission 125

⁵⁶⁷ Submission 149

⁵⁶⁸ Centacare evidence, 16 June 1999

Recommendation 12

The Department of Community Services should remove the additional costs for services provided by the Department including registration on the Reunion and Information Register; access to identifying information (prescribed information) from departmental files; attendance at an information meeting and a copy of a Search Guide.

- 10.60** Another concern raised was that people seeking their adoption information are experiencing lengthy delays. The Committee understands that it can take up to three months between the issuing of a supply authority and the provision of adoption files. This can result in contact between the parties to the adoption prior to them seeing their adoption files. People embarking on a reunion should have access to all the relevant files and records regarding their adoption so they may adequately prepare for that reunion. One mother, Jill O'Connor, told the inquiry about the distress caused to her by the delays.

I made inquiries from DOCS to get my Social and Medical history, and was told that will take at least 6 months. Six months to me is a lifetime.⁵⁶⁹

- 10.61** The Committee believes that the current delays are unsatisfactory and that all adoption files should be provided at the same time as the supply authority. Adequate staff resources are required to ensure this.
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Recommendation 13

The Department of Community Services should take the necessary steps to ensure all adoption files are provided to the applicant at the same time as the supply authority.

- 10.62** Further difficulties in accessing adoption information are encountered if the applicant needs to conduct searches of registries in other States and Territories. For example, if an adopted person who was placed for adoption in NSW is searching for a birth parent who was married in another state, she may have to request records from registries in each State and Territory until she locates the right one. Each jurisdiction has different search protocols and operates under different adoption information statutes which can make such searches complicated and time consuming. While NSW and Victoria have fairly extensive computerised records, many of the other States do not, and this delays interstate searches.⁵⁷⁰

- 10.63** Centacare told the Committee that given the time and money expended and the distress often caused by such searches, there should be an Australia-wide integrated system for accessing interstate records.⁵⁷¹
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⁵⁶⁹ Submission 286

⁵⁷⁰ Taylor Evidence, 16 June 1999

⁵⁷¹ Centacare evidence, 21 June 2000

- 10.64** The Committee is aware of various initiatives in operation or under consideration by the NSW Registry of Births, Deaths and Marriages which are designed to improve the efficiency of interstate searches. Georgina Taylor, Manager of Registration Services in the NSW Registry, told the Committee that all States are trying to computerise their registers and indexes as fast as possible. In addition, most States and Territories have adopted model legislation which will facilitate greater consistency in procedures employed by the different state registries. The Committee has also been informed that a sub-committee of Australian Registrars is currently examining the possibility of linking the databases from each of the eight jurisdictions in Australia.⁵⁷²

Recommendation 14

The NSW Attorney General should collaborate with his State and Territory counterparts to achieve greater consistency in adoption information legislation and procedures across Australia as a matter of urgency.

- 10.65** In many cases, the ‘prescribed information’ required by mothers and adopted people engaged in searches is held by the agency that arranged the adoption. As Centacare pointed out, there is a considerable amount of work involved in providing this information to people. In many cases, the agency provides ongoing counselling and support to assist the person to come to terms with the information and possibly arrange a reunion. Centacare told the Committee that while there had been a significant increase in post adoption work during the 1990s, the agency received minimal funding to support this service. It suggested that “guaranteed specific funds for such services would be a very welcome development”.⁵⁷³ The Committee believes that the organisations responsible for the operation and funding of private adoption agencies should consider the additional post adoption work done by agencies such as Centacare in their funding and support arrangements.

Financial compensation

- 10.66** A small number of witnesses who are relinquishing mothers felt strongly that they should receive financial compensation for the trauma inflicted by past adoption practices.

My anger is such that I demand that all persons who were part of this conspiracy face criminal proceedings, and that they be made to pay victims compensation.⁵⁷⁴

- 10.67** Other women requested financial compensation for the money spent on counselling costs in the post adoption period. Vickie Strachan told the Committee that since the “forced adoption” of her son in 1974:

⁵⁷² Personal conversation, Michael Coughlan, Acting Manager, Registration Services, NSW Registry of Births, Deaths & Marriages, 23 October 2000

⁵⁷³ Submission 257

⁵⁷⁴ Submission 43

I have spent many years and much money seeing psychiatrists, psychologists, doctors, private counsellors, alternative practices. I would have liked some compensation for these costs incurred due to losing my son.⁵⁷⁵

10.68 However, many relinquishing mothers, who appeared as witnesses felt that compensation was not an appropriate response to what had happened to them.

I do not want compensation because no amount of compensation could make up for what has been taken from me - the right to be a mother to my child in the real sense of the word.⁵⁷⁶

While I believe most sincerely that the adoption practices of the past were wrong, both morally and ethically, I do not believe the Inquiry should do more than report that the past practices were ill-conceived, poorly managed and should not be repeated. I do not believe in compensation for activities that were based on belief systems that were accepted at the time.⁵⁷⁷

10.69 In recent times, it has become more common for groups of people harmed by past events to seek financial compensation, even for events that happened decades ago. For instance, in recent history there have been increasing numbers of claims for compensation for damages resulting from warfare and from medical negligence. However, groups of women have been under-represented in this form of litigation. As evidence to this inquiry has shown, single pregnant women were often treated with indifference and expected to forget their experience and get on with their lives. Many of them have, until recently, kept their adoption experience secret. It would be unfair to exclude people who suffered as a result of serious unlawful actions in relation to adoption from seeking compensation, simply because the pressures to remain silent, effectively prevented them from speaking out or seeking redress in the past. For those people who do seek compensation for past unlawful conduct, one avenue is to claim damages for personal injury, as discussed below. However, the majority of mothers presenting evidence indicated that their principal concern is to attain recognition that past practices were wrong, and that they have had a lasting effect. Many mothers felt strongly that no amount of money could compensate for their loss.

10.70 The Committee believes that reparations for past practices should include both material and non-material measures such as access to appropriate counselling, free access to records, acknowledgment and apology and the public disclosure of past practices. Funding is best used proactively to provide increased access to counselling and research that provides continuing support to people affected by adoption rather than for individual payments. In view of the deep and lasting impact of adoption on some people, the Committee believes that there is a strong argument for increased funding for measures such as those outlined in this chapter that are intended to increase the availability of support services to all people affected by adoption.

⁵⁷⁵ Submission 131

⁵⁷⁶ Roscoe evidence, 27 July 1999

⁵⁷⁷ Submission 118

Limitation Act 1969

- 10.71** The Public Interest Advocacy Centre (PIAC) has advised the Committee that the main barrier to compensation for people affected by past adoption practices is the *Limitation Act 1969* (NSW), which places a three year limit on the time available to a person to commence legal proceedings for personal injury.⁵⁷⁸ Once the limitation period has expired, a person must apply to the Court for an extension of time in which to commence their claim for compensation. An extension of time is difficult to obtain and will only be given for certain very specific reasons that are outlined in the Limitation Act. In the case of past adoption practices, 'latent injury' provides a possible reason for granting an extension.
- 10.72** A latent injury is one where the harm was not apparent at the time the 'wrongful act' took place, but became apparent at a later stage. An example, might be where a person did not show signs of long-term damage at the time an adoption consent was taken, but harmful effects appeared many years later. In such a case, the three year limitation period would not begin to run until harmful effects became fully apparent.⁵⁷⁹ However, a Court is only permitted to grant an extension for latent injury if it can be shown that it is "just and reasonable" to do so.⁵⁸⁰ This has been interpreted by the courts as requiring them to take into account the level of 'prejudice' to the defendant arising out of the delay as well as the need for justice to the complainant.
- 10.73** PIAC advised the Committee that they attempted to claim damages from the State of New South Wales on behalf of Ms Dian Wellfare in 1993. PIAC sought an extension of time in which to claim damages on the basis of latent injury. The Court accepted that Ms Wellfare may have suffered a latent injury, but refused to grant an extension of time on the basis that to do so would cause unreasonable prejudice to the defendant.⁵⁸¹ According to PIAC, the Court found that the State would be prejudiced by:
- trying to defend a claim dealing with event that took place 28 years ago where it had to deal with the plaintiff's [Ms Wellfare's] uncorroborated statement of events.⁵⁸²
- 10.74** Given the lapse of time, the Court found that the State faced major problems in providing evidence to defend the claim. No notes had been made regarding certain details of the birth, such as the alleged use of pillows to prevent Ms Wellfare from seeing the child; the consent taker did not recall taking Ms Wellfare's consent and the social worker who counselled Ms Wellfare had died. The lack of evidence meant that the State would suffer by being unable to present relevant material to oppose Ms Wellfare's claim. As a consequence,

⁵⁷⁸ Submission 290

⁵⁷⁹ *Limitation Act 1969*, s60I(1)

⁵⁸⁰ *Limitation Act 1969*, s60G(2)

⁵⁸¹ *W v State of New South Wales*, Master Greenwood, 13 December 1996

⁵⁸² Submission 290

an extension of time was not granted and Ms Wellfare was unable to pursue her claim. The decision to refuse an extension of time was confirmed on appeal.⁵⁸³

10.75 The Committee notes that, as with Ms Wellfare's case, most claims from women presenting evidence to this inquiry would be out of time under the Limitation Act. According to PIAC all cases from women who gave birth in the 1960s and 1970s would face similar hurdles in persuading a court to grant an extension of time in which to commence proceedings. Furthermore, women who commence legal action that is ultimately unsuccessful are likely to have to pay substantial legal costs to the other side.⁵⁸⁴

10.76 According to PIAC, Ms Wellfare's case highlights the difficulties of seeking redress through traditional legal structures for women who were forced to adopt out their children in the 1960s and 1970s. PIAC told the Committee that while each case must be assessed on its individual facts:

the current state of law regarding when a limitation period will be extended makes it unlikely that cases that are similar to Ms Wellfare's will be successful. Further, because the courts deal with each case in an isolated fashion the evidence of other women suffering similar treatment is irrelevant even though common sense suggests that repeated, consistent claims are likely to be true.

10.77 PIAC have suggested that if a future case is successful it will not be because it is more meritorious than any other case, but rather because the women was "lucky in the lottery" involved in the availability of witnesses and documentation relating to the event. PIAC have therefore suggested that an alternative to litigation is required:

If the claims of all these women, who have clearly suffered greatly from the adoption of their children, are to be justly and effectively addressed an alternative mechanism to litigation should be relied on.⁵⁸⁵

10.78 Ms Wellfare's case outlines difficulties faced by women who seek compensation for negligence by adoption professionals, or for breach of other duties owed by adoption professionals and/or agencies. The Committee is aware that it is less difficult to obtain an extension for an application for compensation based on fraud or deceit,⁵⁸⁶ however, the maximum limitation period for such actions is 30 years.⁵⁸⁷ This means that it is not possible to commence legal proceedings to seek compensation for harm resulting from fraudulent or deceitful acts that occurred prior to 1970.

⁵⁸³ *W v State of New South Wales*, Hidden J, 10 July 1997

⁵⁸⁴ Submission 290

⁵⁸⁵ Submission 290

⁵⁸⁶ *Limitation Act 1969*, s55

⁵⁸⁷ *ibid*, s51

The need for a review

- 10.79** The Committee has already indicated its view that compensation is not appropriate to most people affected by adoption; nor are most people involved seeking financial compensation. The Committee notes that litigation is an expensive and risky process that may bring little benefit. Other forms of material and non-material reparations are more appropriate in assisting people to overcome the impact of past practices. However, it could be argued that some people should be entitled to individual compensation, particularly in respect of cases where there is clear evidence of serious wrongful or criminal conduct. The lack of evidence available could make litigation very difficult for many women. The Committee was faced with similar problems in addressing individual allegations made in evidence due to the lack of documentary or other corroborating evidence. While the Committee was impressed by the similarity of accounts by mothers and believes this lends credibility to their argument that unethical and unlawful practices did occur, this does not mean that individual accounts would sustain legal proceedings.
- 10.80** The Committee has not received any evidence regarding options for compensation apart from some suggestions that the Limitation Act be repealed or amended to allow claims to proceed. The implications of amending the Limitation Act go well beyond the subject matter of this inquiry and would therefore need very careful consideration. It may not be appropriate to modify the operation of the Limitation Act to enable claims by women affected by past adoption practices to proceed without also addressing the needs of other classes of people who are adversely affected by the Act. The Committee also appreciates that the Limitation Act reflects a long-standing legal principle that certainty and security is promoted by allowing only limited periods of time in which to commence legal action.
- 10.81** The Committee is not in a position to recommend such far-reaching reform of the Limitation Act on the basis of evidence taken. It should be noted that there have already been a number of reviews of Limitation Acts by Law Reform Commissions in NSW, Western Australia, Queensland and Tasmania.⁵⁸⁸ However, the Committee believes that the Attorney General should consider should be a review of the Limitation Act to determine whether there is any need to amend the Act for certain claims where there is clear evidence of seriously unlawful conduct.

Recommendation 15

The NSW Attorney General should consider whether there is a need to review the *Limitation Act 1969* to determine whether the Act should be amended to allow certain types of claims to proceed.

⁵⁸⁸ For more information, see Law Reform Commission of Western Australia, *Report on Limitation and Notice of Actions*, January 1997; Tasmania Parliament, *Limitations of Actions for Latent Personal Injuries*, Report No. 69, August 1992; Queensland Law Reform Commission, *Review of Limitation of Actions Act*, Report No. 53, 1974

Criminal proceedings and judicial inquiry

- 10.82** A small number of mothers suggested that criminal actions should be taken against certain adoption professional for breaches of the law. They cited various offences under the *Crimes Act 1900* or the *Adoption of Children Act 1965*.
- 10.83** The Committee believes that the appropriate bodies to investigate and prosecute offences under NSW law are the Department of Community Services, the police and/or the Director of Public Prosecutions (DPP). As outlined in chapter 5, it will not be possible to prosecute past offences under the *Adoption of Children Act 1965* unless the offence has come to the notice of the complainant within the last six months. However, time limits do not always apply to offences under the *Crimes Act 1900*. Allegations or evidence of specific criminal offences should therefore be presented to these bodies. Both the police and the DPP have the discretion to decide whether or not to investigate and/or prosecute alleged offences. These decisions are made in accordance with the DPP prosecution guidelines and take into account factors such as the quality of evidence, the public interest and the likelihood of success.
- 10.84** In relation to the role of the Department of Community Services in investigating past allegations, the Committee wrote to the Department on 7 July 2000 seeking details of past investigations of alleged misconduct in relation to adoption. The Minister for Community Services, the Hon Faye Lo Po' MP, advised the Committee on 6 December 2000 that "it would be an enormously resource intensive task to individually audit all adoption files for allegations or evidence of misconduct from 1950 - 1998".⁵⁸⁹ However, the Minister pointed out that the Department referred 7 matters to the police for investigation between 1990 and 1993.
- 10.85** The Committee notes that the standard of proof in criminal proceedings means that an allegation must be proved 'beyond reasonable doubt' before a person can be convicted of a criminal offence. Clear evidence would be required to support a prosecution and the lapse of time would present considerable difficulties. In these circumstances, the Committee is unable to support the proposal of criminal proceedings, and is concerned about the impact such proceedings would have on all parties to the adoption, including birth parents, adoptees, and adoptive parents.
- 10.86** Some witnesses sought a Royal Commission or judicial inquiry to further investigate allegations of criminal conduct in past adoptions. One group who did not want to be named told the Committee they are:
- calling for a National Judicial Inquiry or Royal Commission into adoption practices Australia-wide. These crimes must be exposed ...⁵⁹⁰
- 10.87** The Committee did not receive sufficient information or reasons to justify the establishment of a Royal Commission on adoption, nor was the purpose of the proposed

⁵⁸⁹ Hon Faye Lo Po' MP, Minister for Community Services, Minister for Ageing, Minister for Disability Services, Minister for Women, Correspondence, 6 December 2000

⁵⁹⁰ Submission 271

Commission made clear. Consequently, the Committee is not able to support the establishment of such an inquiry.

Overturing past adoptions

10.88 Some witnesses in the inquiry called for the adoptions of their children to be set aside. A small number of mothers argued that adoptions should be nullified if they were secured as a result of unethical or illegal practices.

Render illegal adoptions during the period 1950-1998, where evidence from birth mothers confirms that the adoption of their children was illegal. That is, where there is inadequate evidence from the adoption file to indicate that birth mothers were informed and counselled by people skilled to assist them making the correct decision for their children.⁵⁹¹

10.89 The Committee is aware that, regardless of the way that consent was obtained, an adoption order remains in place as a valid Court order unless it is discharged by a later order of the Court. As explained by Justice Richard Chisholm, adoption orders:

are orders of the Supreme Court. That is a superior court and the rule is that orders of a superior court, even if they are made without jurisdiction or if there is something wrong with them, remain in force until they are set aside.⁵⁹²

10.90 However, procedures exist in both the Adoption of Children Act and the new Adoption Act for discharge of adoption orders on the basis that consents were defective or obtained by fraud, duress or other improper means.⁵⁹³ Both Acts also enable a Court to discharge an adoption order if there is some other 'exceptional reason' to do so. Currently, under the Adoption of Children Act, only the Director-General of the Department of Community Services or the Attorney General are able to apply to the Court for discharge of an adoption order. However, when the new Adoption Act commences operation in early 2001, any party to the adoption - including the birth parents - will be able to apply to the Court for discharge of an adoption order.

10.91 Discharging an adoption order would effectively reinstate the legal relationship between the child and the birth parents. Both the Adoption of Children Act and the Adoption Act prevent the Court from discharging an adoption order where it would be "prejudicial to the best interests of the child" to do so. This reflects the paramount consideration in both Acts that requires the Court to put the best interests of the child above those of the birth parents or adoptive parents.

10.92 The Committee is satisfied that the Adoption Act will provide procedures sufficient for those people who feel that an adoption order should be overturned. The Crown Solicitor has advised the Committee that there are no limitation periods that apply to the Act and therefore evidence from a considerable time ago may be presented in support of an

⁵⁹¹ Submission 107

⁵⁹² Chisholm evidence, 25 October 1999

⁵⁹³ See *Adoption of Children Act 1965, s25; Adoption Act 2000, s93*

application.⁵⁹⁴ The Committee is aware that even where there is evidence to suggest that a consent was not properly obtained, an application for discharge would not be successful unless it was also in the best interests of the child. The Committee considers that setting aside an adoption order without reference to the current needs of the children would be inappropriate and possibly damaging.

Should adoption be restricted or banned?

10.93 Many mothers who relinquished their child for adoption told the inquiry that the risks of adoption to mothers and their children are so great that it should only be undertaken as a last resort.

Taking children from their mothers should be an absolute last resort. When this is necessary, every effort should be made to have the child looked after, maybe on a temporary basis, within the child's family.⁵⁹⁵

10.94 A small number of women suggested that adoption as it exists today should be abolished.

... I would like to see the abolition of adoption as it stands. Other measures that are in place, such as guardianship, can provide for the security of children.⁵⁹⁶

10.95 This suggestion was strongly opposed by several organisations, including the National Council for Adoption:

The abolition of adoption as a permanent form of childcare will result in an increase in the number of children who will be condemned to a life of impermanence and instability. Fostering and guardianship have a very real place in the social structure, but neither offers the child the sense of belonging, of identity, permanency and security and safety which is afforded by a legal adoption ...⁵⁹⁷

10.96 While the adoption experience has been traumatic for the majority of people involved in this inquiry, the Committee understands that for many people, including mothers, fathers, adoptees and their families, adoption has been a life-long and rewarding experience which has not caused long-term distress and suffering.

10.97 The number of children adopted today in NSW is extremely small, falling steadily from the peak of the mid 1970s. The Committee is satisfied that adoption is now effectively a last resort. In 1972 adoptions peaked at 4,564 and in 1999 there were only 178 adoptions.⁵⁹⁸

⁵⁹⁴ Crown Solicitor's Office, *Advice*, 4 December 2000

⁵⁹⁵ Roscoe evidence, 27 July 1999

⁵⁹⁶ Farrar evidence, 16 June 1999

⁵⁹⁷ Submission 149

⁵⁹⁸ Registry of Births, Deaths & Marriages, Adoption Records, Correspondence, 31 October 2000

10.98 In light of evidence presented, the Committee has concluded that in certain circumstances adoption, as it is practised today, remains the best available option for both the relinquishing mother and the child. The Committee believes that no good purpose would be served by banning adoptions and such action would be against the community's best interests. The interests of the child remain paramount in adoption law, and in some cases, permanent placement is in the best interests of the child.

A formal apology and acknowledgment

10.99 The Committee heard a range of views from mothers regarding the need for a formal apology from the Government and from the private agencies responsible for past adoptions. One mother explained that she would like "an apology from those involved in the past adoption practices."⁵⁹⁹ Another mother told the Committee:

I want the NSW Government to acknowledge and apologise to me personally, and publicly, to all those involved and to debunk the myths surrounding adoption practice.⁶⁰⁰

10.100 Several support groups also endorsed the need for a formal apology and considered it to be a critical part of the healing process. Origins stated:

An apology would not only acknowledge and validate the intense feelings of pain and injustice experienced by women who have been victims of past atrocities, it would begin to alleviate the feelings of isolation they have been condemned to for decades.⁶⁰¹

10.101 The Committee understands that past adoption practices have had an enormous impact on many relinquishing mothers as well as the other parties to adoption, particularly adoptees. In her evidence to the Committee, adoptee Margaret Watson who only learned of her adoption at the age of 40, stated that:

I do not consider suggestions or calls for financial compensation to be an appropriate outcome for this inquiry. I think the best that we can seek is heartfelt apologies from those in the health, welfare and legal professions who may have acted illegally ...⁶⁰²

10.102 On the other hand, a number of women felt that an apology would do little to relieve the pain and suffering caused by past practices. Judith Roscoe, whose adoption experience occurred in 1961, told the Committee:

⁵⁹⁹ Stebbings evidence, 19 October 1998

⁶⁰⁰ Submission 81

⁶⁰¹ Cole evidence, 2 September 1998

⁶⁰² Submission 98

I am doubtful whether it would make me feel much better. Saying sorry cannot give me back my daughter's childhood or erase for either of us our pain and suffering.⁶⁰³

10.103 Cameron Horn, the father of a baby relinquished for adoption in 1980, told the inquiry that only a personal apology would be acceptable to him.

As far as sweeping apologies are concerned, they are not really of any use, since they deal in broad brushstrokes and not individual cases. The only apology that would mean anything to me is one written personally. Anything less than something as narrow and personal than this is not of any great effect.⁶⁰⁴

10.104 Some mothers thought that while an apology might be helpful, it was only one of a number of measures that need to be implemented.

Although I realise it is important for some people, I get very concerned that people will get stuck because of the realisation that those words might not be forthcoming. I would actually rather see some action take place about remedying some of the pain and acknowledging some of the issues that need to be looked at.⁶⁰⁵

10.105 While some mothers did not specially request an apology, they did suggest that those involved in the delivery of adoption and related services should acknowledge that past practices were inappropriate, unethical or illegal. One mother believed that there should be an "acceptance by authorities that some practices were unethical and unlawful".⁶⁰⁶ Many mothers feel that their distress could be reduced if there was a public acknowledgment of the traumatic nature of their adoption experience. Lisa Windon told the Committee that this would be an:

Acknowledgment that mistakes were made, that deception occurred, consciously or unconsciously, assisted by society's so-called moral standards at the time. Acknowledgment that single pregnant girls and women were not granted the dignity afforded to proper married women, nor given credit for their capabilities and intelligence. Acknowledgment that these practices, despite their origins, rationales or outcomes, led to varying degrees of suffering for those involved.⁶⁰⁷

10.106 For some women, it is essential that such an acknowledgment include an admission that past practices were unethical and illegal, as suggested by Diana Eagles.

The Government should publicly acknowledge the illegalities which occurred. The law was broken; lives were torn apart and destroyed...By making the wider community aware of illegal practices relating to adoption it will make it much

⁶⁰³ Roscoe evidence, 27 July 1999

⁶⁰⁴ Horn evidence, 18 October 1999

⁶⁰⁵ Keys evidence, 27 July 1999

⁶⁰⁶ Submission 48

⁶⁰⁷ Windon evidence, 18 October 1999

easier for adopted children, birth mothers and adoptive parents to understand the individual circumstances surrounding their particular situation.⁶⁰⁸

10.107 However, for some adoptees and adoptive parents, an acknowledgment that past practices were illegal or unethical would be unhelpful. One adoptee told the Committee that she would feel considerable guilt and sadness if she was to learn that her birth mother had been coerced into relinquishing her and that this knowledge would have a negative impact on her relationship with her birth mother and adoptive parents.⁶⁰⁹ Patricia Grant, an adoptive mother, believes past mistakes should be acknowledged, but largely with a view to the future.

In countless areas of our past there have been heinous practices. In Australia – the treatment of the convicts, the aborigines in Tasmania, the Stolen Children have all been a disgrace. Yet we must move on...All we can do from the past is learn from it, and move forward. Looking back is not the way.⁶¹⁰

10.108 To date, some form of apology, acknowledgment or expression of regret has been issued by several organisations involved in adoptions. In 1997 at the 6th Australian Conference on Adoption held in Brisbane, the NSW Branch of the Australian Association of Social Workers (AASW) issued a statement expressing “extreme regret at the lifelong pain experienced by many women who have relinquished their children for adoption”. In evidence to this inquiry, the Association told the Committee that while it had not made a final decision about the question of an apology, it was concerned that social workers should not be held solely accountable for past practices.

I am concerned that social workers are often seen as the public face of an organisation. It was not only social workers that were involved but also doctors, nurses, and midwives. In some ways we are being asked to take on responsibility for the way in which the whole society viewed women and children, particularly unmarried women who were pregnant at the time.⁶¹¹

10.109 At the Committee hearing in June 1999, Centacare offered the following apology.

We take the position that whenever a person, or persons has been aggrieved or hurt by another person, it is most appropriate and often a healing experience if the offending party apologises. In this context we would like to take this as an opportunity to say sorry for any practices that this agency, whether it be the Catholic Adoption Agency or Centacare Adoption Services, has engaged in which has been detrimental to peoples' well-being. We apologise also for any individual cases where we were either unethical or illegal in our practices as defined by the law and accepted procedures at that time.⁶¹²

⁶⁰⁸ Submission 27

⁶⁰⁹ Berzins evidence, 27 July 1999

⁶¹⁰ Submission 129

⁶¹¹ Talty evidence, 27 August 1998

⁶¹² Wilson evidence, 16 June 1999

10.110 In a supplementary submission to the inquiry, two former adoption professionals, Margaret McDonald and Audrey Marshall, presented their response to the above apology. They expressed concern that the apology may lead to ‘misrepresentation and misinterpretation’ because it overestimated the role of past adoption practice in causing grief and suffering to relinquishing mothers. In their view, this grief was “in the main attributable to the social attitudes and conditions of the time”. The adoption workers had no knowledge of illegal practice but acknowledged that:

It is now clear that the lack of attention to the needs of the mothers has had serious consequences to many them and we deeply regret and express our sorrow that we were part of a society and a system that did not respond adequately and appropriately to these needs.⁶¹³

10.111 The Executive Director of Anglicare, Rev Howard Dillon wrote to the Committee and stated:

(Anglicare) recognise that although policies and procedures were followed at the time, this does not preclude that there may have been some practices which caused emotional pain and long-term repercussions.

Adoption Workers in today’s climate now have a far greater understanding of the potential ongoing impact of loss and grief issues for parents who make the decision to have their child adopted.

We would therefore like to say sorry and express our sincere apology to any parents who were involved with our Service in the past and feel that any of our practices may have caused emotional pain and hurt.⁶¹⁴

10.112 The Post Adoption Resource Centre also felt that as a society we need to find ways of saying sorry to those people who have borne the burden of past adoption practices. In their submission, PARC explained that this was not a ‘sorry’ that admitted personal responsibility but rather in the sense Ronald Wilson described it in the context of the ‘stolen generation’, as a desire to lessen someone else’s sorrow by sharing it.

In this spirit, the staff of the Post Adoption Resource Centre are sorry that people have been damaged and hurt by their experiences of adoption.⁶¹⁵

10.113 A representative from the Sisters of St Joseph commented that their adoption practices “evolved over time and no doubt at times mistakes were made.” The Committee was told that those women who may have been hurt while in their care “were entitled to an apology” and were encouraged to make contact with the Sisters of St Joseph “so that their needs may be addressed”.

I cannot even begin to imagine the pain of losing a baby to adoption, nor can I presume what is best for the mothers who have suffered this loss. The mothers who have come to the Sisters of St Joseph in recent times have come with a

⁶¹³ Submission 246

⁶¹⁴ Anglicare correspondence, 27 October 2000

⁶¹⁵ Submission 244

variety of needs. They have come to share memories, to vent their anger, to cry, to express gratitude, to give support, to relive the past, and above all they come to be heard with respect and with openness.

We have tried and we will try to meet the individual needs of each mother, and this seems to have helped some. We will continue to listen in openness and to help in any way that is possible and appropriate.⁶¹⁶

- 10.114** A representative of the Seventh Day Adventist Church, Dr Percy Harrold, suggested that it was difficult to apologise for practices that were in line with current mores and appeared to be correct at the time. He read a prepared statement to the Committee in which he stated that the Seventh Day Adventist Adoption Agency operated within the legislative and social framework of the time and its staff acted with compassion.

The giving up for adoption of a child is never an easy decision; nor is it a painless procedure. The pain lingers on for life in many instances. Each of these mothers is a person of great worth but she suffers a sense of permanent loss. For this loss and trauma the church expresses its sorrow. For the adopted child there can be the stress of finding his personal identity and the struggle to contact birth parents. This can be traumatic. For this trauma the church expresses its sorrow.⁶¹⁷

- 10.115** Representatives of the Departments of Health and Community Services said that the issue of an apology was a matter of government policy. The Manager of Adoption Services, Department of Community Services, Mr Harvey Milson, argued that the question of an apology needs to be considered “on the merits of each individual case”. Mr Milson told the Committee that he did not believe there were any “systematic instances” where the department had acted unethically or illegally.⁶¹⁸ In answer to a written question the Director General of NSW Health, Michael Reid, explained that there was no evidence on file to suggest any instances of systematic illegal or unethical behaviour by the Department of Health, the Health Commission or the Hospitals Commission.⁶¹⁹

The Committee’s view

- 10.116** The Committee heard different points of view on the significance of a formal apology. For many mothers an apology would be an important first step in alleviating some of their distress and feelings of guilt and would assist in the healing. They believe it would send a clear message to their children that they had very little choice in the decision to relinquish. For others, an apology would not help them with the healing and could never replace the child they believe was taken from them. The Committee also found that many women supported the need for a formal acknowledgment that past adoption practices had been harmful and at times unethical and illegal.

⁶¹⁶ Sisters of St Joseph evidence, 19 October 1998

⁶¹⁷ Harrold evidence, 29 July 1999

⁶¹⁸ Milson evidence, 27 August 1998

⁶¹⁹ Correspondence, NSW Health, 25 October 2000

- 10.117** The Committee notes the recent apologies issued by adoption agencies such as Centacare and Anglicare. The Committee also acknowledges the expressions of sorrow and regret offered by several other agencies and individual practitioners, and would urge other agencies involved in past adoption practices to consider a similar statement of apology or regret.
- 10.118** This inquiry has found that past practices were in many cases misguided, sometimes unethical and on occasions unlawful. This has resulted in suffering and trauma for many people that should be acknowledged. While apologies from government and private adoption agencies may be appropriate, the Committee does not wish to imply that NSW government public servants and adoption professionals from these agencies were solely responsible for the suffering of young women as a result of their decision to have their baby adopted.
- 10.119** Community attitudes and pressures were also directly or indirectly involved in the young woman's decision to consent to adoption. As explained in earlier chapters, pressures were placed on young women to consent to adoption by a range of people including family members, general practitioners, peer groups, members of the clergy, educators, and so on. In many cases, of course, mothers decided on adoption after their own assessment of their circumstances.
- 10.120** An apology recognises that some past adoption practices, regardless of their motivation, were wrong and have led to continued suffering. An apology encompasses unintentional suffering as well as deliberate harm. An apology also makes it clear that there should be no return to the practices of the past. Given the central role of the NSW Department of Community Services and the NSW Health Department and their antecedents in past adoption practices, the Committee considers that an apology from these departments would be very important to those persons suffering distress as a result of adoption practices. Similarly, a formal apology from private agencies, churches, hospitals, professional organisations and individuals would go a long way to assist persons suffering distress.

Recommendation 16

The NSW Government should issue a statement of public acknowledgment that past adoption practices were misguided, and that, on occasions unethical or unlawful practices may have occurred causing lasting suffering for many mothers, fathers, adoptees and their families.

Recommendation 17

The departments, private agencies, churches, hospitals, professional organisations and individuals involved in past adoption practices should be encouraged to issue a formal apology to the mothers, fathers, adoptees and their families who have suffered as a result of past adoption practices.

Disclosure of past adoption practices

10.121 There were a range of comments by mothers, fathers, adoption professionals and others on the importance of public disclosure of past adoption practices. The Committee was told that the revelation of past practices would help the general community understand the difficult circumstances faced by many mothers who relinquished their child for adoption.

It is really important to bring this out in the open and for people to realise the circumstances at the time and how hard it was to make a choice – at a time it was not really a choice.⁶²⁰

10.122 Numerous women stated the importance of letting their adopted children know that they were loved and wanted. As one mother explained, “the false scenario of uncaring birth mothers giving away their unwanted babies should be exposed and erased.”⁶²¹ Other mothers wanted their children to understand that they were often compelled by extremely difficult circumstances to relinquish their babies.

... Many adoptees believe they were abandoned, unwanted, unloved. It is very important that it becomes public that little or no help was offered to their mothers to enable mother and child to stay together.⁶²²

10.123 Several witnesses also stressed the importance of identifying and recording past adoption practices so that history does not repeat itself. As one adoptee explained:

Acknowledgment of acts which took place, devoid of best practice principles, need to be truthfully addressed and recorded to ensure such violations do not occur to future generations and families.⁶²³

10.124 Many mothers and adoption professionals have viewed this inquiry, including the public hearings and the publication of transcripts, as an important step towards improving community understanding of past adoption practices and their consequences.

I have found the inquiry to be most beneficial. A part of my life that was kept hidden for years was now being freely discussed in a public forum and the shame and stigma around my son’s birth and adoption has begun to dissipate as I have been able to discuss my experiences and feelings, of which grief and rage have been the most difficult to process.⁶²⁴

Centacare is pleased that the points of concern over past practices will have, through the Parliamentary Enquiry, an avenue to be aired and examined. The Enquiry is therefore welcomed and Centacare recognises that such exposure can

⁶²⁰ Witness A evidence, 30 September 1998

⁶²¹ Submission 27

⁶²² Submission 8

⁶²³ Submission 98

⁶²⁴ Eagles evidence, 19 October 1998

lead to a measure of healing for those birthparents whose profound sense of loss and grief has been compounded by real/perceived past practices.⁶²⁵

10.125 Some adoption professionals suggested that the publication of women's stories of adoption would be an important and positive way to publicly acknowledge mothers' experiences of adoption. PARC suggested that the publication of birth mothers' accounts of their adoption experience would assist in the healing. The AASW suggested that:

One method of acknowledging the diverse stories of birth mothers and their children would be a publication in the style of "Bringing them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families". Such a publication would allow the wider community to understand what happened to birth mothers, adopted children and their adoptive families. It would also allow those people affected by adoption to tell their stories, a process which may contribute to healing and reconciliation.⁶²⁶

10.126 A number of mothers and adoption professionals suggested that further research into all aspects of adoption could assist some mothers. One witness told the Committee that a greater understanding of the long-term effects of adoption on all parties involved would be useful.⁶²⁷ Other mothers wanted research into the "adverse affects of adoption on natural mothers and their subsequent children."⁶²⁸ As discussed above there is also a need for further research on the reunion process.

10.127 While some adoption professionals have publicly acknowledged that their past actions were misguided and wrong, the Committee regrets that some professional bodies and individuals, particularly in the medical profession, have not willingly and forthrightly engaged with this inquiry.

10.128 There was almost universal agreement on the importance of the public disclosure of past adoption practices. The removal of the secrecy surrounding their adoption experience was a significant factor prompting many women to give evidence to this inquiry. For many it was the first time they had spoken publicly about very painful adoption experiences and the Committee Members admire their courage. The Committee envisages that the publication of this report and its broad distribution will go some way towards extending the public knowledge of past adoption practices. This inquiry has exposed ill-conceived and misguided adoption practices and evidence taken has pointed to unethical and sometimes illegal procedures. It has revealed the longstanding effects of the trauma experienced as a result of these practices on mothers, their families and adopted people. The publication of this report will attract widespread attention and inform the community of the nature of past adoption practices and their effect on individuals.

10.129 The Committee is aware that there is a growing body of research on the adoption experience, and its effects. A number of research theses were submitted as evidence to this

⁶²⁵ Submission 257

⁶²⁶ Submission 252

⁶²⁷ Witness H evidence, 29 July 1999

⁶²⁸ Submission 81

inquiry and provided a valuable source of information for this report. The Committee believes that research of this nature should be encouraged, particularly studies into the continuing impact on some mothers, fathers, adoptees, adoptive parents and families, and also stories of post adoption reunion experience. In addition, the Committee believes the publication of stories of and by mothers who relinquished their children would provide a valuable record and resource for sociological studies. The public education campaign should make clear that many of the mothers who gave up their children to adoption were denied their rights, and did not uncaringly give away their children.

Recommendation 18

The Department of Community Services should provide funding to appropriate organisations or support groups for mothers to collect, collate, edit and publish comprehensive accounts of their adoption experiences.

Recommendation 19

The Minister for Community Services should establish a research grants program for the purpose of investigating the effects of past adoption practice on mothers, and the issues surrounding the reunion process.

Recommendation 20

The Minister for Community Services should establish a public education campaign on the effects of past adoption practices.

Conclusion

10.130 The evidence presented to this inquiry was compelling and the Committee was moved by the courage of those people who were able to speak of their very personal and often painful adoption experiences. As we have heard, many people continue to suffer as a result of past adoption practice. This inquiry has significantly enhanced the understanding of adoption practices in the period under review and the impact of adoption on many people. Adoption is a life-long experience and it is possible that an adoption will continue to have some impact on future generations searching for clues to their biological heritage. For this reason it must not be presumed that the need for resources for adoption-related work will diminish in the short term. Continuing support and assistance for adoption is of paramount importance. This chapter has attempted to address at least some of the measures that might assist those persons affected by adoption now, and in the future.

Chapter 11 Issues for the future

This report has largely focussed on adoption practices in the 1950s, 1960s and 1970s. The inquiry has shown that many of the practices and policies in past years were flawed and have resulted in lasting suffering for a considerable number of people, particularly women who relinquished a child. Throughout the inquiry the Committee received numerous submissions, letters and phone calls about more recent social phenomena such as donor insemination and overseas adoptions. The Committee was struck by the parallels to issues related to past adoptions and shared themes such as the right of people to have access to information about their biological and cultural heritage. This chapter briefly considers some of these emerging phenomena. In addition, it looks at the current support arrangements for State wards and people who have been in substitute care and the importance of family tracing and reunion to people who have been separated from their natural parents. The chapter also explores aspects of the new adoption legislation, the *Adoption Act 2000*, including the provision for openness and the Aboriginal Child Placement Principles.

It is not the purpose of this chapter to comprehensively discuss these issues. Instead, the Committee is keen to stimulate debate around some major social issues for the future. The evidence to this inquiry on adoption has clearly shown that governments and other service providers have a continuing responsibility to review laws and the way those laws are interpreted and administered.

Donor Insemination

- 11.1** Evidence to this inquiry has demonstrated the importance of allowing people to have access to information about their origins. This is consistent with the evidence given to the Social Issues Committee 1989 inquiry, which produced the report *Accessing Adoption Information*. The issue of access to 'origins' information is also of importance to people who have been conceived by means of donor insemination. There is limited NSW legislation governing donor insemination and the use of donor semen for IVF procedures and there are no provisions for the offspring's right to know about their genetic heritage. The NSW Department of Health is currently reviewing the need for comprehensive legislation governing assisted reproductive technology. The review is considering issues such as the establishment of a donor register, the regulation of donor clinics and the importation of semen from overseas for use in this State.
- 11.2** Many people believe that all children have the right to access information about their genetic, medical, ethnic and social heritage. The evidence to this inquiry suggests that, for many people, access to this information is extremely important. Others believe, just as firmly, that those semen donors who have no relationship at all with the woman who bears the child should have their anonymity maintained.
- 11.3** The Committee supports the establishment of a donor register so that information can be accessed, at the very least, for specific purposes such as medical assessment of hereditary conditions. As donor insemination has existed for over 20 years, there is an urgent need for these issues to be addressed and resolved. The Committee therefore urges the government to clarify the situation as soon as possible.

State wards

- 11.4** The terms of reference for this inquiry instructed the Committee to consider adoption practices and their effects. Hence there has been no detailed consideration of State wards. In evidence to the Committee some relinquishing mothers told the Committee that children were made State wards or placed in foster care where adoption was not possible. Recent media attention to the experiences of State wards has highlighted some of the important issues for people who spent part or all of their childhood in one of the hundreds of homes in this State, particularly in the 1950s and 1960s.⁶²⁹ The Committee understands that there are some government-funded services to State wards under the age of 25. The NSW government funds the After Care Resource Centre, which is part of Relationships Australia, as well as other services attached to Burnside and Centacare to assist young wards in their preparations to live independently. While there is currently no designated government funding for services for State wards over the age of 25, the recently established Care Leavers of Australia Network (CLAN) provides support to all age groups Australia-wide. As with adoption practices, self-help and support groups for people in State care have been pivotal to changes in practice in institutions, and in providing support and assistance.
- 11.5** The Committee understands that there is a growing need for professional support for these groups as provided in other States. For instance, the Victorian Adoption Network for Information and Self-Help (Vanish) receives government funding to provide State wards with support for search and reunion. In Queensland, a government-funded service was recently established in response to recommendations in the 1999 Forde report, *Commission of inquiry into abuse of children in Queensland Institutions*. The After Care Resource Centre receives recurrent funding to provide counselling and support services for Queensland State wards.
- 11.6** The Committee believes that NSW State wards, particularly those over the age of 25, should have access to support and assistance similar to that provided in other jurisdictions, and urges the NSW Government to consider the need for these services.

Substitute care services

- 11.7** The issue of the need to be provided with services such as the Post Adoption Resource Centre for children and families who have been affected by the substitute care system was briefly raised with the Committee. Substitute care services provide out-of-home care for children, for example foster care. These services are essential to ensure that the wellbeing of children is maintained in circumstances where they are unable for a variety of reasons to remain with their parents. In their submission to the inquiry, Burnside stated,

Services for people who have adoption experiences should be extended to all those who have experienced substitute care, to help them to deal with the grief of separation and loss.⁶³⁰

⁶²⁹ For more information, see N. Barrowclough, 'Orphans of the living', *Sydney Morning Herald Good Weekend*, October 14, 2000

⁶³⁰ Submission 258

- 11.8** The importance of reform of substitute care services has been highlighted by a recent Community Services Commission inquiry into substitute care.⁶³¹ This inquiry has demonstrated the deep and lasting effects that childhood separation from parents can have on both the child and their parents. The Committee urges the Government to carefully consider the issue of support services for people who have experienced substitute care.

Intercountry Adoption

- 11.9** As this report has shown, adoption in Australia has changed radically in the last 40 years. One of the major effects of local changes has been to channel demand into the adoption of children from overseas. In 1998-99 nearly 2/3 of children adopted in NSW were from overseas.⁶³² As discussed in chapter 4, initiatives such as the Hague Convention have created conditions which could lead to an increase in the number of intercountry adoptions in Australia.⁶³³ The most recent adoption conference in Hobart devoted considerable attention to this topic, demonstrating the growing interest in this issue. Many of these papers identified the need to keep under review adoption policy as it relates to overseas adoptions. The Committee notes the importance of maintaining contact with cultural heritage and the need to focus on ways to assist international search and reunion.

Adoption of children with special needs

- 11.10** As explained in Part One of this report, babies who were expected to be relinquished, but were not declared 'healthy', were deferred for adoption. Prior to the mid 1970s, these babies were either kept by their natural mother, placed in foster care or made wards of the State. In more recent years, governments and private agencies have developed specific programs for the adoption of babies and children with special needs. The special needs program is now one of the major features of adoption in this State. Anglicare Adoption Services has, at any one time, 12 children with special needs in their program who are between placement in foster care and the finalising of the adoption order. The Committee understands that in addition to this, an essential part of the special needs program is the post adoption support of families during the childhood years. Agencies such as Anglicare assist with arranging government subsidies, respite services particularly for families with children with high support needs, and with the provision of other specialised support services and equipment.⁶³⁴ The Committee acknowledges the significant work involved in the special needs programs and the need to ensure appropriate long-term support for these children.

⁶³¹ Community Services Commission, *Substitute Care in NSW: New Directions – from Substitute to Supported Care*, Final Report, November 2000

⁶³² S. Kelly, 'Adoption in Australia – an overview', 7th Australian Adoption Conference, op.cit., Hobart 2000, pp.107-120

⁶³³ For more information see Catherine Gray, 'The Hague Convention: Human rights or last rites for intercountry adoption', 7th Australian Adoption Conference, op.cit., Hobart 2000, pp.93-106

⁶³⁴ Anglicare Adoption Services, Annual Report, 1998

Adoption Act 2000

- 11.11** Both Houses of the NSW Parliament passed the *Adoption Act 2000* in November 2000 and it is anticipated that it will come into effect in mid 2001. Until then, *Adoption of Children Act 1965* remains in force. The terms of reference for this inquiry directed the Committee to consider adoption practices between 1950 and 1998 and the relevant legislation for this period. Therefore, this report does not consider in detail the components of the new Act.⁶³⁵
- 11.12** The Committee recognises that the *Adoption Act 2000* incorporates much of the Law Reform Commission's proposed Adoption Bill 1997 with the notable exception of the provision of access to adoption for same sex couples.⁶³⁶ Where the 1965 Act was a reflection of the desire to keep adoptions secret, the new Act reflects current attitudes and directs future practices towards openness. While the Committee is not in a position to comment on the relevant provisions in the new Act, it is clear that policy and practice for open adoptions are still being developed and refined. At the most recent Adoption Conference, members of the Committee were impressed by the complexity of this type of adoption arrangement in States such as Victoria and Western Australia, and were made aware of and the many positive experiences as well as problems associated with these arrangements.⁶³⁷ The Committee believes that there is a need for further research in areas such as the appropriateness of open adoption arrangements and the effects of these arrangements on all members of the adoption triangle and their families.
- 11.13** The Act also addresses the calls made by the *Bringing them home* report, to legislatively recognise Aboriginal Child Placement Principles. When Aboriginal or Torres Strait Islanders are to be placed for adoption, it is accepted that where possible they should be placed within their own culture and community. While acknowledging the importance of this inclusion, the Committee is aware of concerns that the Act has separate provisions for the adoption of children descended from two Aboriginal parents and those descended from one Aboriginal parent. The Committee acknowledges the complexity of this issue and therefore believes there should be further discussion on the issue between government and key stakeholders such as the Aboriginal support and counselling body, Link-Up (NSW).
- 11.14** During the year 2000, the Minister for Community Services, Hon Faye Lo Po', foreshadowed the introduction of legislation to facilitate the adoption of abused and neglected children without the need for parental consent. There was considerable community debate about this proposal, which remains unresolved.

⁶³⁵ This report does address the arrangements for contact vetos in the *Adoption Act 2000*. For more information see chapter 10.

⁶³⁶ NSW Law Reform Commission, op.cit., March 1997, pp.516-653. While the *Adoption Act 2000* allows for single people to adopt, same sex couples are barred from adoption.

⁶³⁷ For more information, see J. A. Allen, 'Description and explanation of access in open adoption in Victoria', 7th Australian Adoption Conference, op cit, Hobart 2000, p.49-63

Conclusion

- 11.15** The exploration of these issues in this chapter has been brief, and seeks only to stimulate debate. The evidence presented to this inquiry has constituted a warning against complacency about our laws, and the policies and procedures by which they are administered. Mistakes of the past continue to have an effect on many people. The Committee strongly believes that it is necessary to learn from these mistakes so that the whole community can be assured that past failures will not be repeated.

Appendix 1

Submissions Received

No	Author
1	Ms J Porter
2	Confidential Submission
3	Ms J Schokker
4	Ms G Bell
5	Mrs J Fisher
6	Ms A Lindh
7	Ms L Ngata
8	Ms L Eve
9	Mrs L Arthur
10	Confidential Submission
11	Mr C Horn
12	Confidential Submission
13	Ms A M Constable
14	Ms R Chaney
15	Confidential Submission
16	Ms A Powles
17	Mrs C Newling
18	Ms L Blamire
19	M Guest
20	Mrs V Hunt
21	Ms B Harmand
22	Ms G Green
23	Confidential Submission
24	Mr P Quinn
25	Reverend Dr T Frame
26	Ms D Plaizier
27	Confidential Submission
28	Mr S Barnes
29	Mrs P Grant
30	F Crook
31	Mrs R Senior
32	Mr J Thomson
33	Confidential Submission
34	Ms Pauline Tucker
35	Ms G Light

36	Ms E Duncan
37	Ms B Hardy
38	Ms T Parish
39	Ms J A Pares Dickson
40	Anonymous Submission
41	Ms K Wallis
42	Ms Monica Jones
43	Ms B Keir
44	Ms E Berzins
45	Ms D Walton
46	Ms C Paul
47	Ms K Clune
48	Ms W Kilroy
49	Ms M Hatton
50	Confidential Submission
51	Ms J Craig
52	Ms J Bushell
53	Ms H Larsson
54	Ms G Wilson
55	Mrs P Braden
56	Ms J Carey
57	Mrs F Levings
58	Ms M Betts
59	Mrs L Pincham
60	Mrs L Cox
61	Ms J Benson
62	Confidential Submission
63	Ms M Pratten
64	Ms S Whalley
65	Ms M Eslick
66	Confidential Submission
67	Ms G Bell
68	Confidential Submission
69	Mrs D Trevethan
70	Ms C Jamieson
71	Confidential Submission
72	Ms S Smith

73	Confidential Submission
74	Ms S Bramwell
75	Confidential Submission
76	Mr J Herrick
77	Confidential Submission
78	Ms L Wilkins
79	Mrs D Stebbings
80	Ms S Weismantel
81	Ms T Stone
82	Confidential Submission
83	Confidential Submission
84	Mr & Mrs Liuia
85	Ms E Weston
86	Ms J Burkin
87	Ms G Roberts
88	Confidential Submission
89	Ms K Collins
90	Confidential Submission
91	Confidential Submission
92	Ms M Pung
93	Ms L Scott
94	Mr S Bender
95	Ms J Rose
96	Mrs B Rose
97	Ms T Mustchin
98	Ms M Watson
99	Confidential Submission
100	Confidential Submission
101	Mr A Bodman
102	Ms L Saxton and Mr K Saxton
103	Mrs W Pankhurst
104	Anonymous Submission
105	Children's Center for Developmental Psychiatry, St Petersburg, Florida, USA
106	Confidential Submission
107	Ms L Greenup
108	Ms D Duncan
109	Anonymous Submission

110	Confidential Submission
111	Confidential Submission
112	Ms M Herrick
113	Confidential Submission
114	Ms A Hay
115	Ms S Kemp
116	Ms P Doble
117	Mr K Limby
118	Mrs J Farquhar
119	L M Rosalind Hobbes and A Hobbes
120	Ms J Hall
121	Confidential Submission
122	Confidential Submission
123	Confidential Submission
124	Confidential Submission
125	Ms C McNeil
126	Ms J McHutchison
127	Confidential Submission
128	Mr J Wimble
129	Ms H Wells
130	Confidential Submission
131	Ms V Strachan
132	Confidential Submission
133	Ms J Hunt
134	Ms H Cumming
135	Mrs M O'Neill
136	Confidential Submission
137	Ms K Vlaming
138	Ms L Roeleven
139	Confidential Submission
140	Ms C Winwood
141	Confidential Submission
142	Mrs J Dunn, Mr T Flack, Mrs D Williams, Mr S Dunn, Mrs J Andrew, Mr B Dunn, Mr J Dunn
143	Confidential Submission
144	Confidential Submission
145	Mrs M Cameron

146	Confidential Submission
147	Ms D Dawson
148	Ms V Rushbrooke
149	Confidential Submission
150	T C Gollant
151	Confidential Submission
152	Ms S Lambert
153	Mr J Wade
154	Confidential Submission
155	Ms E Mittermayer and Ms G Dore
156	Mrs A Darragh
157	Ms J Montgomery
158	Confidential Submission
159	Ms J Roscoe
160	Ms J Heining
161	Confidential Submission
162	Ms G Finch
163	Mrs S Semos
164	Ms M Coblenz
165	Confidential Submission
166	Ms V Blair
167	Ms J Taylor
168	Mrs M Barton, OAM
169	Ms F Callander
170	Ms J Burrows
171	Confidential Submission
172	Confidential Submission
173	Ms G Nicholl
174	Ms L O'Neill
175	Ms S Ahern
176	Ms H Priest
177	Confidential Submission
178	Confidential Submission
179	Confidential Submission
180	(no submission recorded)
181	Ms R Wilson
182	Mrs L Cahill and Ms E Cahill

183	Ms L Devasahayam
184	Ms M Melville
185	Ms C Muston
186	Mrs V Maplesden
187	Ms S Williams
188	Ms W Jacobs
189	Ms V Lindsay
190	Ms S Doran
191	Ms C Cole
192	Confidential Submission
193	Confidential Submission
194	Confidential Submission
195	Confidential Submission
196	Ms D Wilson
197	Ms T de Launay
198	Confidential Submission
199	Ms L Hibbert
200	Ms L McDonald
201	Mr P Carroll
202	Ms N Booth
203	Ms D Lynn
204	Ms A Wilson
205	Mrs C Mousley
206	Mrs D Neill
207	Ms M Cameron
208	Ms M Croy
209	Ms V Lindsay
210	Ms J Turner
211	Ms D Shepherd
212	Ms J Aitken
213	Ms D Hahn
214	Ms P Farrar
215	Confidential Submission
216	Confidential Submission
217	Mrs D Gray
218	Mr S Porter
219	Ms J M van Leeuwen

220	Mr W Hyland
221	Ms K Downie
222	Ms D Welfare
223	Mrs M Watson
224	Confidential Submission
225	Confidential Submission
226	Ms J Noble
227	Ms J Nathan
228	Mr W Christian
229	Confidential Submission
230	Ms D Dorian
231	Ms S Berg
232	Confidential Submission
233	Confidential Submission
234	Ms P Wilkie
235	Mrs K Coe
236	Confidential Submission
237	Ms P McLoughlin
238	Mrs P Clifford
239	Confidential Submission
240	Ms G Hogan
241	Ms N Pfeiffer
242	Ms M Wallace
243	Confidential Submission
244	Benevolent Society of New South Wales, Post Adoption Resource Centre
245	New South Wales Committee on Adoption and Permanent Care Inc
246	Ms M McDonald and Ms A Marshall
247	Anglicare Adoption Services
248	Arc Search Services (Aust) Pty Ltd
249	National Council for Adoption Inc
250	The Association of Childrens Welfare Agencies Inc
251	Adoption Privacy Protection Group (NSW) Inc
252	Australian Association of Social Workers, NSW Branch
253	Royal Hospital for Women
254	Dr G A Rickarby, Consultant Psychiatrist
255	Justice R Chisholm, Judge, Family Court of Australia
256	ARMS – Association Representing Mothers Separated from their Children by

	Adoption Inc, Western Australia
257	Centacare Adoption Services
258	Burnside
259	NSW Health Department
260	Department of Community Services
261	Sisters of St Joseph
262	Ms S Thornton
263	Origins (NSW)
264	Ms D Fincham
265	Confidential Submission
266	Ms A Jukes
267	Mrs B O'Leary
268	Ms M Lewis
269	Mr S Knowles
270	Confidential Submission
271	Confidential Submission
272	Confidential Submission
273	Confidential Submission
274	Ms V Forsyth
275	Ms K Key
276	Ms K Russell
277	Confidential Submission
278	Confidential Submission
279	Mrs M Miller
280	Ms T Smith and Ms A Mansfield
281	Mrs L Bunyan
282	Mr & Mrs Johnston McCance
283	Ms M Penman
284	Ms K Murton
285	Ms S Forshaw
286	Ms J O'Connor
287	Seventh-Day Adventist Adoption Agency
288	Ms J Pakulski
289	Confidential submission
290	Public Interest Advocacy Centre (PIAC)
291	Mr D Arthur
292	Ms M Lobley

293	Confidential Submission
294	Mr J Fanderlinden
295	Mr T Constable
296	Mr E McMahon
297	Ms E Cochrane
298	Citizens Commission on Human Rights
299	Ms S McIlveen
300	Confidential Submission
301	Confidential Submission
302	Ms P McIntyre
303	Confidential Submission
304	Mrs R Wilson
305	Confidential Submission
306	Ms Julie Sagaci

Appendix 2

Witnesses at Hearings

27 August 1998

Mr Harvey Milson

Manager, Adoption Services
Department of Community Services

27 August 1998

Ms Alison Smith

Assistant Manager, Adoption Services
Department of Community Services

27 August 1998

Mr Derek Smith

Senior Solicitor
Department of Community Services

27 August 1998

Ms Cheryl McNeil

Mother

27 August 1998

Ms Jill Davidson

President
Australian Association of Social Workers, NSW Branch

27 August 1998

Ms Jill Talty

Member
Australian Association of Social Workers, NSW Branch

27 August 1998

Dr Timothy Smyth

Deputy Director General, Policy
NSW Health Department

2 September 1998

Ms Sarah Berryman

Senior Manager
Benevolent Society of NSW, Post Adoption Resource Centre

2 September 1998

Ms Petrina Slaytor

Social Worker
Benevolent Society of NSW, Post Adoption Resource Centre

2 September 1998

Ms Lynne Perl

Social Worker
Benevolent Society of NSW, Post Adoption Resource Centre

2 September 1998

Dr Geoffrey Rickarby

Consultant Psychiatrist

2 September 1998

Ms Margaret McDonald

Retired Social Worker

2 September 1998

Ms Audrey Marshall

Retired Social Worker

2 September 1998	
Ms Christine Cole	Chairperson Origins
2 September 1998	
Ms Dian Welfare	Secretary Origins
30 September 1998	
Witness B	Mother
30 September 1998	
Ms Alison Croft	Social Worker Anglicare Adoption Services
30 September 1998	
Witness A	Mother
19 October 1998	
Sister Antoinette Baldwin	Nurse Sisters of St Joseph (NSW)
19 October 1998	
Mrs Diane Stebbings	Mother
19 October 1998	
Mr Peter Stebbings	Father
19 October 1998	
Ms Diana Eagles	Mother
16 June 1999	
Mr Craig Wilson	Director, Children and Youth Services Centacare Adoption Services
16 June 1999	
Ms Angharad Candlin	Principal Officer Centacare Adoption Services
16 June 1999	
Ms Evelyn Costello	Director, Employment Services Centacare Catholic Community Services

16 June 1999

Witness C Father

16 June 1999

Ms Georgina Taylor Manager, Registration Services
NSW Registry of Births, Deaths and Marriages

16 June 1999

Ms Patricia Farrar Mother

17 June 1999

Witness D Mother

27 July 1999

Ms Erika Berzins Adopted person

27 July 1999

Ms Maree Key Adopted person

27 July 1999

Ms Judith Roscoe Mother

27 July 1999

Ms Margaret Watson Adopted person

27 July 1999

Witness E Mother

27 July 1999

Witness F Support person for Witness E

27 July 1999

Mr Robert Miller ARC Search Services (Aust) Pty Ltd

29 July 1999

Ms Shirley Forshaw Mother

29 July 1999

Ms Bessie Knox Adoption Triangle

29 July 1999	
Witness G	Mother
29 July 1999	
Witness H	Mother
29 July 1999	
Ms Netti Vandervelde	Adoptive Mother
29 July 1999	
Mr Andreas Vandervelde	Adoptive Father
29 July 1999	
Dr Percy Harrold	Director, Adventist Health, South Pacific Division Seventh-Day Adventist Church
20 September 1999	
Witness I	Former Principal Officer Church of England Adoption Agency
20 September 1999	
Witness J	Retired Adoption and Foster Care Worker Anglican Church Adoption Agency
20 September 1999	
Witness K	Sisters of St Joseph (NSW)
20 September 1999	
Witness L	Sisters of St Joseph (NSW)
20 September 1999	
Witness M	Social Worker
25 October 1999	
Justice Richard Chisholm	Judge Family Court of Australia
25 October 1999	
Ms Judy McHutchison	Mother Former Co-Ordinator, Association of Relinquishing Mothers

25 October 1999

Ms Wendy McCarthy AO Former Chief Executive Officer
Family Planning Association of Australia

25 October 1999

Dr Frederick Hinde Retired Medical Practitioner

25 October 1999

Ms Linda Graham Mother
Chairperson, Origins

25 October 1999

Mr Barry Duroux Co-Ordinator
Link-Up (NSW) Aboriginal Corporation

25 October 1999

Ms Wendy Hermeston Senior Caseworker
Link-Up (NSW) Aboriginal Corporation

25 October 1999

Dr Stefania Siedlecky AM Retired Medical Practitioner

25 October 1999

Dr Edith Weisberg Medical Practitioner

Appendix 3 Appendix

Adoption Forum

Legislative Council Chamber
18 October 1999

Forum Guidelines & Witnesses

Forum Guidelines

Selecting Forum speakers

- The speakers at the Forum will have made a submission to the Inquiry into Adoption Practices.
- If the Committee is unable to accommodate all those people who wish to speak, the Committee will conduct a ballot to select speakers.
- A number of places will be reserved for speakers from regional and rural New South Wales.
- Speakers will be asked to address any or all of the Terms of the Reference to the Inquiry.

Giving evidence at the Forum

- Each speaker will have up to ten minutes to provide his or her evidence to the Committee. A bell will sound at 8 minutes, and then at 9 minutes. The speaker will be asked to cease speaking at 10 minutes. Extensions of time may be granted in exceptional circumstances.
- Committee Members may question speakers within the time allocated to speakers.
- Each speaker will be asked to state his or her full name at the commencement of the speech.
- Each speaker will be asked to take the oath or the affirmation immediately prior to giving evidence.
- A speaker may, with the leave of the Committee, table documents. Tabled documents will not be incorporated into Hansard but will form part of the official record of the Forum.
- Speakers are entitled to be heard without interruption from any person other than a Member of the Committee. Members of the public may not interject or disturb proceedings at any time.

Other Forum matters

- The Committee will determine a list and order of speakers prior to the day.
- Hansard will record the Forum proceedings.
- Authorised media will be permitted to record proceedings. Other persons are not permitted to film, photograph or record proceedings.

These guidelines were adopted by the Standing Committee on Social Issues on Monday 18 October 1999.

18 October 1999	
Ms Maretta Pratten	Mother
18 October 1999	
Ms Margaret Bickley	Mother
18 October 1999	
Ms Louise Greenup	Mother
18 October 1999	
Ms Lisa Windon	Adopted person
18 October 1999	
Mr Cameron Horn	Father
18 October 1999	
Ms Rosemary Chaney	Mother
18 October 1999	
Ms Marianne Himmelreich	Mother
18 October 1999	
Ms Linda Devasahayam	Mother
18 October 1999	
Ms Benita Rainer	Adopted person
18 October 1999	
Ms Wendy Jacobs	Mother
18 October 1999	
Ms Kathleen Vlaming	Mother
18 October 1999	
Ms Barbara Hardy	Mother
18 October 1999	
Ms Pauline Wilkie	Mother

18 October 1999	Ms Vivian Lindsay	Mother
18 October 1999	Mr James Wade	Father
18 October 1999	Ms Lyn Williamson	Adopted person and Mother
18 October 1999	Ms Gail Bell	Mother
18 October 1999	Ms Lorna Blamire	Adoptive Mother
18 October 1999	Ms Maureen O'Neill	Mother
18 October 1999	Ms Denise Seymour	Mother
18 October 1999	Ms Traci Hollebhone Stone	Adopted person and Mother
18 October 1999	Ms Maureen Cameron	Mother
18 October 1999	Ms Monica Pung	Mother
18 October 1999	Ms Barbara Moyes	Mother
18 October 1999	Mrs Pamela Clifford	Adopted person
18 October 1999	Ms Monica Herrick	Mother

18 October 1999

Ms Ann Jukes Mother

18 October 1999

Ms Anna Hay Mother

Appendix 4

Ex-nuptial births as a proportion of
total births in NSW: 1950 - 1998

Ex-nuptial births as a proportion of total births in NSW: 1950 - 1998

Year	Registered Births	Exnuptial Births		Year	Registered Births	Exnuptial Births	
		No	%			No	%
1950	71,592	2,914	4.07	1975	81,172	8,319	10.24
1951	72,069	2,991	4.15	1976	78,749	7,993	10.14
1952	74,196	2,959	3.98	1977	78,302	8,268	10.55
1953	74,890	3,013	4.02	1978	78,052	8,615	11.03
1954	73,125	2,889	3.95	1979	77,469	9,079	11.71
1955	74,407	3,024	4.06	1980	79,801	10,086	12.63
1956	75,714	3,305	4.36	1981	81,971	10,977	13.39
1957	79,456	3,438	4.32	1982	83,908	11,807	14.07
1958	80,045	3,832	4.78	1983	83,307	12,446	14.93
1959	80,866	4,017	4.96	1984	77,994	11,871	15.22
1960	81,983	1,441	1.75	1985	87,786	13,712	15.61
1961	86,392	4,575	5.29	1986	84,531	14,329	16.95
1962	85,439	4,771	5.58	1987	86,093	15,503	18.00
1963	84,065	4,823	5.73	1988	84,647	16,003	18.90
1964	80,518	5,427	6.74	1989	85,790	17,345	20.21
1965	78,069	5,700	7.30	1990	90,534	19,254	21.26
1966	77,758	6,024	7.74	1991	87,367	19,427	22.23
1967	78,841	6,300	7.99	1992	92,585	21,412	23.12
1968	81,696	6,622	8.10	1993	89,354	21,351	23.89
1969	86,036	6,860	7.97	1994	87,977	21,548	24.49
1970	88,448	7,455	8.42	1995	87,849	21,910	24.94
1971	98,466	9,674	9.82	1996	86,595	22,000	25.40
1972	95,278	9,766	10.25	1997	87,156	23,238	26.66
1973	87,332	8,726	9.99	1998	85,499	22,748	26.60
1974	86,162	8,371	9.71				

Source: NSW Registry of Births, Deaths & Marriages, October 2000

Appendix 5

Registered adoptions in NSW:
1924 - 1999

Registered adoptions in NSW: 1924 - 1999

Year	Registered Adoptions	Year	Registered Adoptions
1924	28	1962	2,303
1925	282	1963	2,175
1926	299	1964	2,517
1927	502	1965	2,294
1928	685	1966	2,914
1929	837	1967	1,940
1930	791	1968	1,986
1931	672	1969	2,074
1932	463	1970	3,177
1933	877	1971	3,630
1934	816	1972	4,564
1935	889	1973	2,685
1936	837	1974	2,058
1937	968	1975	1,889
1938	1,107	1976	1,763
1939	982	1977	1,509
1940	1,164	1978	1,041
1941	1,403	1979	1,094
1942	1,440	1980	856
1943	1,496	1981	965
1944	1,594	1982	1,175
1945	1,324	1983	904
1946	2,037	1984	741
1947	1,625	1985	936
1948	1,666	1986	702
1949	2,019	1987	690
1950	1,533	1988	488
1951	1,447	1989	840
1952	1,672	1990	688
1953	1,875	1991	522
1954	2,090	1992	404
1955	1,627	1993	356
1956	1,651	1994	316
1957	2,047	1995	308
1958	2,322	1996	272
1959	2,255	1997	274
1960	1,650	1998	192
1961	2,217	1999	178
		TOTAL	102,609

Source: NSW Registry of Births, Deaths & Marriages, October 2000

Appendix 6

Archival Research

Archival material held by the following agencies was viewed during the course of the inquiry.

- Anglicare Adoption Services
- Australian Association of Social Workers (NSW)
- Centacare Adoption Services
- NSW Department of Health
- NSW Midwives Association
- Obstetric Social Workers' Group
- Post Adoption Resource Centre
- State Records Authority of New South Wales
- State Library of New South Wales

The Committee engaged a consultant historian, Ms Nicole Secomb, to assist the Secretariat with archival research and in particular to examine adoption records held by the State Records Authority of New South Wales.

Appendix 7

Correspondence

- Letter from Professor David Johnson
- Letter from Dr Ross Pagano

Ms Beverly Duffy,
Social Issues Committee
Parliament of New South Wales,
Macquarie Street, Sydney 2000

6th November 2000



Dear Beverly,

My calculations of a poverty line for the March quarter 1968 are as follows.

The poverty lines are updated each quarter according to the formula:

$$\text{poverty line}_{(i,t)} = \text{poverty line}_{(i,t-n)} * ((\text{HDI per head}_{(t-n)}) / (\text{HDI per head}_{(t)})),$$

where,

i refers to family type i,

t is quarter t and t-n is a quarter n periods ago, and

HDI per head is household disposable income per head per week.

The value of the poverty line for the March quarter 1968 can be worked out using information from a recent issue of *Poverty lines, Australia* and historical data from ABS about HDI per head in 1968.

Table 1 of the March quarter 2000 *Poverty lines, Australia* shows a value of \$284.24 for a sole non-working parent with one dependent child.¹ In the March quarter the HDI per head was 382.86 (from Table 4, *Poverty lines, Australia*). These figures were generated from ABS National Accounts data and Demographic data². The National Accounts data indicate that HDI was \$4504 million per quarter in March 1968. My estimate of the resident population at that time was 12.081 million hence HDI per head per week is \$28.68. Applying the formula above I estimate the poverty line for a single person with a dependent child in March 1968 to be: $(28.68/382.86)*284.24$ or \$21.29.

Best wishes,

David Johnson,

(Deputy Director)

¹ see Melbourne Institute of Applied Economic and Social Research, 2000 *Poverty lines Australia*, March quarter

² see Australian Bureau of Statistics, PC Ausstats (gopher.statistics.gov.au), Cat 5206.0 Australian National Accounts – National Income, Expenditure and Product – Australia quarterly, file 520602.3.wks.z and Cat 3101.0 Australian Demographic Statistics file 310101.wks.z.



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PRIVATE CONSULTING SUITES
10th FLOOR ROYAL WOMEN'S HOSPITAL
285 CARDIGAN ST., CARLTON 3063
PROVIDER NO. 229 432FTELEPHONE: 9221 5077
9221 5177
AFTER HOURS: 9817 1876
CALL SERVICE: 9387 1000
FAX: 9221 5277

14 November 2000

Ms Julie Langsworth
Senior Project Officer
Standing Committee on Social Issues
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Ms Langsworth,

Thank you for your inquiry regarding the use of DES as a lactation suppressant.

DES was used extensively as a lactation suppressant in the 50's, 60's and 70's and it was usually given as a single dose injection. To date, there has been no evidence at all of any long term consequences of using DES for this purpose and there is no program in place for any specific follow up of these women to whom the drug was given. There has been no documented evidence to suggest that these women are at an increased risk of developing subsequent problems.

The use of DES during pregnancy however has resulted in a slightly increased risk of breast cancer to the women who actually were given the drug during the pregnancy (to prevent miscarriage etc) and these recipients of the drug are certainly monitored long term. However using the drug post delivery reflects a completely different chemical situation as the background oestrogen levels in a lactating woman are extremely low compared to the oestrogen levels during pregnancy which are obviously very high and so the two clinical situations cannot be compared.

I don't believe that patients who are given DES as a lactation suppressant require any additional follow up other than their usual gynaecological and general health check ups that would be recommended to all women in our community. I don't believe that there is any need for specific research in these patients as one would have expected any possible complication to have surfaced by now. Certainly routine mammography and Pap smear surveillance as recommended to the general community would seem adequate follow up in these patients.

Kind regards,

Yours sincerely,



Dr Ross Pagano

ROSS PAGANO PTY. LTD.
A.C.N. 008 441 158

Acknowledgments

The Committee wishes to convey its appreciation to the many people who offered their expertise and resources to the inquiry.

As part of its submission Origins NSW supplied an extensive collection of resources regarding adoption practice during the period under review. The Committee would like to thank this group and in particular its Chairperson, Dian Welfare, for this significant collection.

The comprehensive statistics on adoption and ex-nuptial births cited in the report were supplied by the NSW Registry of Births, Deaths and Marriages and we thank them for their assistance.

Our thanks are also due to the Post Adoption Resource Centre (PARC) and the coordinator, Sarah Armstrong (Berryman). PARC provided important background material regarding a broad range of adoption issues, including access to its small but important collection of archival resources.

The staff of the NSW Parliamentary Library shared their finely honed research skills and knowledge with committee staff. Their contribution to the research for this report is very much appreciated. In particular, we would like to thank Senior Librarians Prue Jessep, Christine Lamerton and Lynette Tavukcu.

Consultant historian Nicole Secomb assisted the Committee with its search of archival records held by various government and private agencies and we appreciate the care and diligence she applied to this task. Christine Yeats, Manager, Public Access, of the State Records Authority of NSW played an invaluable role in our search of adoption records held by the Authority.

Caroline Price, a student from the University of Sydney, was an enthusiastic and highly productive member of the Secretariat during her three month internship.

Finally the Committee would like to acknowledge several legal and medical professionals who contributed to the research work undertaken for this report. They include:

- Dr David Johnson, the Deputy Director of the Melbourne Institute of Applied Economic and Social Research;
- Dr Ross Pagano from the Royal Women's Hospital, Melbourne;
- Associate Professor Graham Starmer from the Department of Pharmacology at the University of Sydney and
- Associate Professor Owen Jessep from the School of Law, University of NSW.

Above all, the Committee would like to acknowledge and thank all the mothers who through their important personal contribution have made this such a moving inquiry.