

**Submission  
No 51**

**INQUIRY INTO REPARATIONS FOR THE STOLEN  
GENERATIONS IN NEW SOUTH WALES**

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## Reparations for the Stolen Generation

The tumultuous and violent history of Aboriginal people of NSW (and Australia-wide) is a shameful burden for us all to carry. Whilst white Australians may say that those of us around today have nothing to do with the injustices of the past, we cannot deny that white Australia maintains the privileged position, across all levels of society, that is not shared with our Aboriginal Australians. They remain, in every way, disadvantaged because of a history which has not been given the chance to be overcome, and because of continuing prejudices. The stark position of so many of our Aboriginal communities is a social malaise that no government to date has been able to overcome, since Australia was colonised.

Strong policy, but most importantly, genuinely consultative policy that cooperates entirely with Aboriginal communities, is the only way to begin to shift from embarrassing national and state-wide inequality. What we know as the Stolen Generation, the draconian and cruel government-mandated kidnapping of Aboriginal children from their parents and families, has continuing effects on Aboriginal communities everywhere. By enacting the long overdue reparations for the stolen generation, we can begin to fix past government's negligence and human rights abuses. Government has a responsibility to do so. NSW must advocate for the importance of reparations for the Stolen Generation to impact on a Federal level, in recognising the scope of this issue, and the responsibility of all levels of Government to address it.

The effects of the Stolen Generation are so wide-spread and severe that it is impossible to analyse the full extent of them. It is an ongoing fracture for Aboriginal communities, and individual identities that are torn from their history. Creativespirits.org talks about some of the effects that are felt, listing issues of loneliness, low self-esteem, loss of identity, legal problems, mistrust, difficulties in finding religious beliefs, internal guilt and an anguish in searching for identity. The many mental health issues listed are known to be of high prevalence among Aboriginal people. Beyond Blue, the mental health organisation, lists Aboriginal and Torres Strait Islander people as one of the most likely groups to suffer from poor mental health, specifically stating that "impacts of the stolen generations and removal of children" is one of the significant risk factors to experiencing poor mental and emotional health.

The Bringing Them Home Report, compiled by the Human Rights Commission, has for too long been collecting dust. Its recommendations are a result of significant research and justify the need, in no uncertain terms, to provide compensation and reparation to the Stolen Generation.

The Terms of Reference outline the 5 reparations listed in recommendation of no. 3:

1. Acknowledgement and apology
2. Guarantees against repetition
3. Measures of restitution
4. Measures of rehabilitation
5. Monetary compensation

I will outline the incontestable need for government to enact these 5 points of reparation, and what actions they may consist of today.

## 1. Acknowledgement and apology

Acknowledgement and apology is the first step to achieving the necessary reparations for the Stolen Generation, and it must occur at every level of Government. Acknowledgement must not cease and we must be reminded of the atrocities of our past that continue to impact the upcoming generations of our Aboriginal people. We must be reminded of the generational impact and therefore, the effects of the Stolen Generation that survive today.

The National Apology delivered by Kevin Rudd in 2008 was an important step in achieving equality and equity for our Indigenous people, as it acknowledged the hardships brought upon them by governments of the past, and of the present. It gave hope for the future possibilities of how Government would interact with the Indigenous community, with genuine consultation, and indeed with absolutely needed reparations. However, as the Northern Territory Intervention exemplified, governments maintain a paternalistic and controlling relationship with Indigenous populations around the country. Equal living standards will never be achieved by stripping away rights to one group, as the Northern Territory Intervention continues to do. This makes a mockery out of the apology that was given and demonstrates no leadership or consultative approach coming from government. The apology given by the ALP back in 2007 remains empty, due to the lack of actions, the lack of empowerment given to Aboriginal Australians to date. We must begin with reparations to one of the most brutalised and bullied groups in Australian history; those who belonged to the stolen generation, and the wider net of those affected by it.

Acknowledgement however, needs to start at an educational level. History texts from a school level must give an accurate and factual account of what happened not only with the Stolen Generation, but further back through Australia's colonisation. Recently the Sydney Telegraph ridiculed UNSW's acknowledgement of Australia being 'invaded', rather than 'discovered' by Captain Cook. This represents the all-pervading white Australian privilege, which sweeps Aboriginal and Torres Strait Islander history aside. It is under these lessons that are taught from a school level, that white privilege begins, in learning about the 'discoveries' made by white ancestors. Our stories are too often written by white male voices that capture this single narrative, and extinguish all others. This was blatantly on display after the 2014 recommendations of the curriculum review (<http://www.smh.com.au/federal-politics/political-news/education-review-overhaul-of-bloated-national-curriculum-widely-supported-20141012-114zkz.html>). Specifically, the recommendations discriminate against already marginalised voices in the curriculum (any variation on the Caucasian and typically male perspective), and seek to further strengthen this already monopolised perspective. The recommendation seeks to include "A greater focus on Western civilisation and Australia's Judeo-Christian heritage in the history curriculum" <http://www.smh.com.au/federal-politics/political-news/education-review-overhaul-of-bloated-national-curriculum-widely-supported-20141012-114zkz.html#ixzz44LU2hcmM>. This is a disconcerting recommendation that blatantly captures the cycle of discrimination, disadvantage, and the flagrant attempt to keep the privileged perspective in place.

It is absolutely imperative that the school curriculum not only includes pedagogy on the Stolen Generation and its continuing effects and transgenerational impacts, but further, uses the correct terms that acknowledge the invasion of Australia.

A Treaty must be entered into with our Indigenous people, as well and considering the need to change our Constitution, to acknowledge Aboriginal and Torres Strait Islander people. Whilst the Recognise Campaign is fighting for the need to update the Constitution, pockets of Aboriginal and Torres Strait Islander communities remain against this. It is imperative that the government consults with a wide base of Aboriginal and Torres Strait Islander people, to capture the various voices and calls for action. I will discuss the need for a Treaty and Constitutional change further in the next recommendation.

## 2. Guarantees against repetition

This seems to be an elusive recommendation, as governments seem always to repeat paternalistic policies, no matter how different they claim to be from horrific policies of the past. There does not need to be a repeat of the Stolen Generation; many policies since then, and continuing today, are a form of repetition of the Stolen Generation, in that they are disempowering, paternalistic and authoritarian. Chris Cunneen's paper presented to the Australian Institute of Criminology details that the high levels of Indigenous incarceration today amounts to another Stolen Generation, as a social failing to address Indigenous disadvantage, that in effect, is separating families today. ([http://aic.gov.au/media\\_library/conferences/juvenile/cunneen.pdf](http://aic.gov.au/media_library/conferences/juvenile/cunneen.pdf)).

The Northern Territory Intervention is a prime example of wide spread contemporary disempowerment of our indigenous communities, created through draconian policies. The community closures in WA again demonstrate the complete disregard and contempt held at a federal level for Aboriginal communities. However, such disgraceful actions are not exclusive to the Northern Territory and other States; New South Wales is not without its pressures upon our Aboriginal and Torres Strait Islander communities. The Aboriginal ownership of land in Redfern is again under threat, as Sydney costs are being driven upwards and large scale development is trumping community needs. The public housing estate in Waterloo, which has a relatively high percentage of Aboriginal people, is going to be sold off by NSW Government, which threatens to ship people out of their locale. Repeatedly, Aboriginal and Torres Strait Islanders are being dispossessed, removed, excluded and disempowered, whilst kept in a cycle of poverty due to long-standing social policy that has repeatedly fail to find an equitable outcome. Repeatedly, Aboriginal people are denied any autonomy over their decisions, instead they remain at the whim of erratic government hands that fail to ever truly consult.

To begin with, NSW must advocate for a National Treaty with Aboriginal and Torres Strait Islander Australians. We are long overdue. This is an internationally recognised means of reconciliation between Indigenous people and governments, and Australia stands out as lagging behind other countries that have already taken the plunge, including US, Canada and New Zealand (<http://www.smh.com.au/comment/treaty-with-australias-indigenous-people-long-overdue-20131112-2xeel.html>). We are, in fact, the only Commonwealth country that does not yet have a Treaty with our Indigenous people. Since Terra Nullius, we are yet to formalise the fact that Aboriginal land was invaded and taken. A Treaty would begin to repair this long overdue injustice, and begin a formal and consultative process of reparations and reconciliation. It is a formal beginning for a partnership-style collaboration between Government and the wider Indigenous communities, and strengthens the way Indigenous people can interact with our laws. To date, they remain exclusive, built from the offensive and exclusive beliefs of 'terra nullius'. It is a national

source of embarrassment that it took until 1992 before Aboriginal people received any legal recognition at all for land rights under the Mabo case.

Our Constitution remains stubbornly archaic piece, and to date, does not acknowledge Aboriginal and Torres Strait Islander people. Whilst debate within our Indigenous communities remains somewhat polarised on how to approach this issue, it is known that significant consultation must be undertaken before initiating any changes. The government must shift to a point of partnership, and this can only be begun in any meaningful way, with a Treaty. From here, the Stolen Generation and other draconian policies can be extinguished and repetition of such events can be denied through the safety net provided by a Treaty.

### 3. Measures of restitution

Restitution is a key measure to the process of equity for Indigenous Australians. In recognising the concept of stolen land and stolen people, we have a very long way to go to reach any relative form of restitution. True restitution that might involve a complete land return of the claimed by settlers, seems an impossible resolution. However, in recognising that full restitution is not likely, given the gravity of treatment against Aboriginal Australians, we are left with nothing more than the essential consultation with communities. Governments can only enact meaningful measures of restitution in direct, ongoing and meaningful consultation with Aboriginal communities, and appropriate forms of restitution are only to be found there. Government must be there solely to facilitate the process of restitution, leaving the outcomes in the hands of Aboriginal and Torres Strait Islander people.

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) have an audio presentation online outlining the need for restitution, stating:

“...restitution is a remedy which falls within the notion of ‘just terms’ and is a more appropriate form of remedy than compensation. It opens the way for a native title party to enter into negotiations or commence proceedings seeking a combination of common law compensation and equitable restitution, which may include an account of profits derived from the land.”

<http://aiatsis.gov.au/publications/presentations/compensation-or-restitution-loss-native-title>

Restitution should not preclude other forms of compensation however needs to be included in the broader scheme of overall reparations.

### 4. Measures of rehabilitation

Rehabilitation is a need that spans far across the social spectrum, for most facets of Aboriginal and Torres Strait Islander lives. In recognising the severe and lasting impacts of the Stolen Generation, including the gap in Indigenous disadvantage compared to non-Indigenous people, the government has a profound responsibility. The common government misconduct however, as discussed throughout this paper, is the authoritarian approach to ‘fix’ these communities (The Northern Territory Intervention). This has had a disastrous effect, and pushed the gap between indigenous and non-indigenous people further apart.

Rehabilitation must come from recognising the social malaise of many Aboriginal communities, families and individuals, caused by indefensible policies of the past, such as the Stolen Generation

and policies surrounding assimilation. The far spanning effects of such policies must all be considered when assessing the scope for rehabilitation needed.

I stress again, that the government's role need only be that of a facilitator; the measures and actions must come from communities affected. This is an integral part of rehabilitation, to ensure that communities are equipped and are trusted to enact their own solutions.

The 'Close the Gap' campaign is well-known for its promotion of Indigenous health, and the vast disadvantage that Indigenous people face, including poor morbidity rates and mortality rates that are 15-20 years behind those of non-Indigenous people ([http://ruralhealth.org.au/10thNRHC/10thnrhc.ruralhealth.org.au/papers/docs/Gauld\\_Susan\\_E7.pdf](http://ruralhealth.org.au/10thNRHC/10thnrhc.ruralhealth.org.au/papers/docs/Gauld_Susan_E7.pdf)). Rehabilitative programs and initiatives that are run by the community prove to be effective in gaining the trust of Aboriginal people, through a history of oppressive government policies attempting to control their lives ([https://www.lowitja.org.au/sites/default/files/docs/103empowerment\\_FS\\_LR.pdf](https://www.lowitja.org.au/sites/default/files/docs/103empowerment_FS_LR.pdf)). They must continue to be funded as priority, as well as providing government benefits, to ensure that severe lack of equity is addressed. Communities must be funded and positioned to care for the rehabilitation work needed to ensure that the gap can be properly addressed, and indigenous health is brought to the same standard as other non-indigenous Australians.

However, unfortunately physical health is merely one point to address in the large scale of issues that have been brought upon our Indigenous communities through years of dispossession and genocide. The effects of the Stolen Generation alone are vast and damaging. The HREOC Report lists the various effects that the Removal continues to have on Indigenous people today:

- More likely to come to the attention of the police through adolescence
- More likely to suffer from mental illness including low self-esteem, depression and other issues
- More likely to experience physical, emotional and sexual abuse
- Likely taught to reject their Aboriginal identity and culture
- Often unable to retain links with their land
- Often unable to partake in the cultural and spiritual life of their former communities
- Unlikely to establish their right to native title

<http://www.racismnoway.com.au/teaching-resources/factsheets/52.html>

These are serious, varied and complex in their nature and require vast amounts of funding in different programs and professionals to address. First and foremost, consultation is key and government bodies must refrain from enacting their own ideas to address these ongoing issues. There must be secure funding for Aboriginal-run support programs to begin to address these issues, and to keep Aboriginal people in touch with their own communities as opposed to the bureaucracy of government-run operations. Governments must recognise that whatever the issue, rehabilitation requires trust, and this is something far from synonymous with the Australian Government, for those suffering the effects of the stolen generation. Rehabilitation must support cultural enriching of all communities, including access to every nation's language, culture and traditions where possible. Pedagogy coming from within Aboriginal communities must be preserved. This link to Aboriginal culture and history must be prioritised within the bounds of rehabilitation, particularly in recognising the loss of this connection to community under the impacts of the Stolen Generation.

The effects of the Stolen Generation also cost the economy extraordinary amounts. Therefore from an economic stance, it is counter-intuitive to negate rehabilitation as a necessity for Aboriginal

communities that have a high rate of incarceration. Reportedly, incarceration costs for Aboriginal children is costing Australia \$236 billion a year (<http://www.smh.com.au/national/locking-up-indigenous-kids-costs-236-million-a-year-20160316-gnkgfq.html>). This is a startling amount of money that has its roots in social inequality. Rehabilitation is not only our moral imperative, it is economically necessary. 'Breaking the cycle' of indigenous disadvantage can be achieved through effective rehabilitation programs, knowing that (as the report states), Indigenous young people are 26 times more likely to be incarcerated than non-Indigenous youth. At these levels, speaking of a very clear social malaise in the Indigenous community, diverting offenders from prison and into a rehabilitation program is vital (<http://www.abc.net.au/news/2013-02-04/indigenous-offenders-need-rehabilitation-not-jail-report/4500246>).

## 5. Monetary compensation

Whilst reparations can present in ways other than monetary, as a Capitalist society, money is most undeniably tethered to opportunities for social, physical, emotional and mental wellbeing (<http://www.economicshelp.org/blog/5002/economics/pros-and-cons-of-capitalism/>). The land, for instance, that was taken from Aboriginal people, can only be purchased today. As money controls ownership, therefore, Aboriginal people must be compensated in relative terms for what has been taken from them. Furthermore, monetary compensation enables choice and empowerment, a stark contrast to the paternalistic 'food tokens' that exist within the Northern Territory Intervention.

We must combat the image and derogatory stereotype that still pervades conservative media outlets, of "handouts" given to Aboriginal and Torres Strait Islander people because of 'laziness'. This is a destructive, divisive and draconian stereotype that clearly demonstrates a complete disregard or lack of knowledge of Aboriginal history and continued cultural traumas. The compensation given by governments will never amount to what was taken, and this must be promoted through the media at large. Education campaigns must also combat conservative outlets in demonstrating the need for equity and social justice. Aboriginal stories need a platform, and must correct the ignorant views of those who engage with damaging media sources. Stolen Generation stories must be taught in schools, and I urge governments to promote the need for monetary compensation to the wider non-Indigenous community.

When we consider State expenditure, it is baffling to hear of arguments to deny the Stolen Generation monetary compensation, when they are still suffering the effects of it. A contentious and heavily opposed 33km motorway project ripping through Sydney is costing the State \$16.8 billion, yet they invest regardless. If State Government could invest in our social fabric with the same ferocity, we may begin to see the wider benefits that come from societies that invest in equity. Aside from a moral imperative, our economy would strengthen, our international reputation would mend, and most importantly, many lives will be saved.

I implore you to invest, and invest heavily, into reparations to the Stolen Generation that have for too long, gone ignored and swept aside. The longer that governments of all levels go without taking needed actions, as outlined, the more complex and dire this issue will become.

<http://www.creativespirits.info/aboriginalculture/politics/compensation-for-stolen-generation-members#axzz43nM51bj6>

<http://www.abc.net.au/news/2014-02-12/priest-native-title/5252298>

Old, but - <http://www.crikey.com.au/2008/02/13/faris-aboriginals-must-be-compensated-heres-how/>

<http://www.abc.net.au/news/2015-11-19/sa-government-announces-11m-stolen-generation-reparation-fund/6954494>

What are we spending money on? Motorways.

and we all have a part to play in this. However It is a social malaise that has yet to be healed, as Governments have squandered opportunities for

<https://www.humanrights.gov.au/setting-scene-australian-framework-reparations>

<https://www.beyondblue.org.au/who-does-it-affect/aboriginal-and-torres-strait-islander-people/risk-factors>

<http://www.creativespirits.info/aboriginalculture/politics/compensation-for-stolen-generation-members#axzz43nM51bj6>

<http://ourmob.org.au/>

to feel the adverse impacts that Government hands have on our Aboriginal and Torres Strait Islander people.

<http://www.abc.net.au/news/2010-06-01/36346>

Northern territory intervention

Redfern



Selling off community

Treaty - <http://www.smh.com.au/comment/treaty-with-australias-indigenous-people-long-overdue-20131112-2xeel.html>

<http://www.australianstogether.org.au/stories/detail/why-treaty>

<http://www.creativespirits.info/aboriginalculture/selfdetermination/would-a-treaty-help-aboriginal-self-determination#axzz43nM51bj6>

Constitutional recognition – contentious though –

<http://www.abc.net.au/news/2015-01-22/constitutional-recognition-of-aboriginal-people-tasmania/6034396>