

**ARMS submission to the Inquiry into Past Forced Adoptive Practices in  
Western Australia**

Dear Mr Foster,

There has been considerable discussion during the last several years about the issues related to adoption as a social policy. Because of the wide terms of reference this new Inquiry provides the Government with an opportunity to create a new future for children in need of care. ARMS(Vic) has taken a wide-lens view of the issues because we believe that forced adoption narrows any meaningful understanding of both current and past practice and the possibilities and opportunities that need to be explored for a future that provides children with ongoing connections to their families of origin, as well as a safe and secure childhood. We would appreciate an opportunity to speak to our submission and encourage the Inquiry to be brave and forward looking.

Marie Meggitt

Jo Fraser

On behalf of ARMS(Vic)

April 2023

## **Western Australia Inquiry into Responses to Historical Forced Adoptions**

ARMS(Vic) is a not for profit organisation founded in 1982 out of a common need to support women who have lost a child or children to adoption. ARMS is a unique support organisation because it is exclusively for mothers. It is governed by a committee of volunteers who have each personally experienced separation from a child through adoption. Committee members are well-trained incidental counsellors based on a self-help model that has, for forty one (41) years, provided high quality, insightful, personal support, information and advice to other mothers. ARMS offers support through a 24/7 telephone service, website and email, has run a monthly peer support group meeting, unbroken for forty one (41) years in Melbourne, and in regional areas either monthly or quarterly for the past ten (10) years as well as a number of yearly commemorative events. ARMS committee members advocate on behalf of mothers and undertake awareness-raising to promote understanding and compassion in the broader community. ARMS supports mothers to reclaim their dignity and rights, obtain information about their children and manage contact and reunion where it is possible. Committee members also advocate on behalf of members to politicians for legislative reform. ARMS has had to be very adept at accessing resources to enable us to continue the work of our unfunded organisation, and although fairly successful, it is exhausting.

### **STAND BACK and look to the Future**

ARMS takes the view that this Inquiry holds a very important possibility for the future for children who are in need of family care, those for whom the State of Western Australia is responsible, and all those managing the ongoing impact of the forced adoption era. It can produce a road map for mothers and for children of the future. For mothers it can ensure that adoption is withdrawn from the statutes and that reparation and adequate professional highly skilled counselling services are available, ongoing for any offspring or mother who requires it. Secondly it can ensure a model of care is enacted that enables children to grow up secure, safe and able to flourish, and that does not require the forced separation from their family of origin.

An immediate question may arise – what has this to do with ‘forced adoptions’? ARMS’ view is that all adoptions past and present constitute being forced. The Act states: “The Child becomes the child of the adoptive parents, as if born to them.” No family would agree that the child they gave birth to had been given birth to by another couple. As well, a service that holds the child as the primary client would never erase the identity of that child and then engage in a legal fraud whereby the child is then issued with a false birth certificate.

Further, except for a very small minority of parents, their children are precious to them and with enough of the right support, those parents may have been or would be able to raise their child. It is true that some family dynamics are so destructive to a child that, for their safety and wellbeing, they are removed from their parents. Of itself, that does not mean that the child should therefore be treated as if s/he were never born to them, either socially, emotionally or legally. It is a permanent and inter-generational legal severance of a child from their family and should not be tolerated now, nor continued into the future. This Inquiry has the opportunity, the knowledge, and the support of mothers and adopted people, to recommend that adoption be withdrawn from the statutes.

ARMS has serious concerns about the way in which the access arrangements in an ‘open adoption’ have been implemented since that option was enacted. The following are our observations and experience.

- Very quickly the agencies moved to restrict these to a maximum of four (4) visits per year, even though this was never a presumption of the Act. It became one of the standards of practice but does not reflect the spirit or the intent of the legislation.
- There is and was poor preparation of prospective adoptive couples and placements have been made where the behaviour of the adoptive parents demonstrated they had no real intention of providing ongoing contact with the family of origin.
- Agency practice demonstrates time and again that their value base holds that a placement should not be impinged upon by the requirement of access arrangements.
- Where a mother signed a consent to adopt with a request for access she was not advised to have it included in the Adoption Order, and in some instances was actively diverted from doing this. The consequence of this was that her wishes had no protection at law and the adoptive parents denied the access.

It is from these experiences that we believe agencies do not have the trust of vulnerable families in the community and they do not truly support open adoption. Over the past 20 years, as fewer children have been placed for adoption, there has been a strong push to enable couples to adopt children from the foster care system. This is a clear and intentional policy by previous NSW governments and accounts for the current very high numbers of adoptions in that State. A more trustworthy service deliverer that can be held accountable is an important dimension of a future facing service.

#### **RECOMMENDATION**

*That the government review the regulations and standards of practice to ensure that true meaning and implementation is given to sustaining contact between the child in OOHC or adoption and his or her family of origin, including ensuring that Courts uphold that practice.*

We remind the Inquiry Committee that adoption is a service for children, not for adults. The WA Department of Communities Adoption Information Booklet states “*Adoption in Western Australia (WA) is a service for children, which aims to provide a new family for a child who is unable, for a variety of reasons, to live with their own family. Adoption should only occur in circumstances where there is no other appropriate alternative for the child. The paramount consideration guiding this service is the best interest of the child. Adoption is not about finding children for families but finding families for children.*” As a child focused service, adoption has been comprehensively undermined through the forced adoption years and by the enactment of the legal lie that the child is to be treated as if born to the adoptive parents. The permanent placement of a child needs to be a dynamic service – practice needs to keep pace with changing knowledge and changing community understanding. For more than 50 years, adoption has been hijacked into being a service for infertile couples. Its reputation has been irredeemably damaged by this. Current knowledge in the field accepts that the permanent separation of a child and denial of family of origin and the falsifying of records is bad public policy, bad practice and damages the child, family, community and the reputation of governments and the legal system.

#### **RECOMMENDATION**

*That the government makes all efforts to transfer to the Family Court all matters pertaining to adoption and OOHC cases given that they are family matters.*

### ***Some Relevant Statistics***

*The AIHW Adoptions Australia 2020/21 Report states that there were 264 adoptions throughout Australia last year – 39 local (4 in Western Australia), 183 known (34 in Western Australia) and 42 inter-country adoptions (excluding an unknown number of expatriate adoptions). Five Indigenous children were adopted, the lowest number of finalised adoptions of Indigenous children since 2016–17. Of the 39 local adoptions, 97% of the mothers were not in a registered marriage at the time their child was born. This suggests that adoption is still seen as a fix for ex-nuptial births. Fathers gave consent to only 41% of local adoptions. Notwithstanding the emphasis given to the importance of engaging the father and his family in the adoption, these statistics suggest there is not enough emphasis given to the father's role in the birth of a baby, his consent to adopt and the possible role of his family. We now know that stranger adoptions are the least best option and kinship care needs to be actively worked. We should be looking more into the possibility that the father and his family might raise the child rather than having it adopted into a family of strangers.*

### **Intercountry Adoption**

Of the 42 intercountry adoptions in 2020/21 15 came from Hague countries and 27 – almost twice as many - from bi-lateral countries. The international principles that govern intercountry adoption are set out in the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, an international treaty to safeguard children in intercountry adoptions. The Convention aims to ensure that intercountry adoption only occurs when it is in the best interests of the child.

A guiding principle of the Convention is that, whenever possible, a child should be raised by his or her birth family or extended family. If this is not possible, other forms of permanent family care in the child's country of birth should be considered. Only after local solutions have been exhausted, should intercountry adoption be considered – and then only if it is in the child's best interests. The fact that so many more children were adopted from countries that are *not* signatories to the Hague Convention (presumably because it is easier to adopt from them) is of concern.

Intercountry adoption became a huge marketing opportunity for those in the adoption business because of untruthful stories of orphaned children in developing countries needing a “forever family”. This is now known to be totally false.

The desire of infertile couples for a child creates a ‘need’ and therefore a baby market, akin to the baby market in Australia which resulted in the forced adoption era and which in turn has led to the Senate Inquiry, the Victorian Inquiry, Apologies and indeed, this Inquiry. Babies and young children were being stolen and sold. The countries themselves recognise that children are best kept in their home country – raised in appropriate cultural and linguistic communities - so some have closed their borders to adoption by foreigners.

As intercountry adoptees from past decades have grown up, there has been great difficulty in providing them with accurate information about their identities, thus making them less than equal citizens. Community attitudes are different now. In the past there was more thought about the needs of infertile couples than of the babies' needs.

There has been an upsurge in support groups for now adult intercountry adoptees and extensive representation to Governments about *their* needs, and those of their original families. Many intercountry adoptees are running support and advocacy groups for now adult adoptees who were brought here as babies from their home countries. Kate Coghlan, a Vietnamese born Australian adoptee is currently working with women in Vietnam who lost their babies during the war, either through forced relinquishment or – in their minds – temporary placement, while the war raged. They returned to claim their babies only to find they had already been shipped off overseas for adoption. She is also fundraising to purchase DNA kits for the mothers so they can register themselves in the hope of finding their children.

### **RECOMMENDATION**

***There should be a pool of money established and held by government and contributed to by placement agencies that provides financial support for activities such as these.***

However, although our community attitudes have changed, in many developing countries they have not. Largely, intercountry adoptions are forced adoptions because the country of origin won't accept the pregnancy and birth of ex-nuptial children. The stigma gives the mother no choice, just as we had none. Ideally Western Australia would take whatever actions it can to ensure that intercountry adoptees have the same rights as Australian born children, including not facilitating an adoption where the country of origin does not provide identifying information at time of placement. It is important that Western Australia only accept adoption placements from countries that are signatories to the Hague Convention. We are very concerned that the loophole of ex-pats qualifying for the placement of a child by meeting the residency requirements circumvents the Government's intention of protecting children from placements that don't meet our standards. It would be a worthwhile exercise to do some data collection around this issue to inform policy.

#### **RECOMMENDATION**

*That the Western Australia Government does not facilitate the placement of a child from another country, where that child is not provided with identifying information about themselves. This information should be provided to the adoptive parents and copies held by the government of the day.*

*That the Western Australia Government work with other states to collect relevant data in relation to ex-pat placement.*

*Any couple who has qualified for an expat placement and returns to Australia with a child should be subject to the same assessment process as applies to intercountry adoptive parents.*

#### **Accessing Information**

According to AIHW figures, only 6% of requests for identifying information were made by mothers while 70% were by adopted people. 84% of adoptees are older than 45 when they request information. This suggests that mothers either aren't aware they have the legislated right to information or they are still deeply constrained by the shame story in which they are trapped. We request the Government develop a significant education campaign to encourage mothers to request information about their sons and daughters, to let them know that counselling is available, and to inform the community of the circumstances of forced adoption. This campaign should also encourage adopted people to search sooner, while their parents are still alive. It would be essential that it include information about the circumstances of forced adoptions.

#### **RECOMMENDATION**

*That the government fund and develop an information campaign to inform the adoption community of their right to information and encourage them to seek support and apply for that information.*

#### **Death of a Child Notification**

When Births, Deaths and Marriages is notified of the death of any person, they should be required to consult their files to determine whether the birth certificate is a Schedule 2, signifying that this person was adopted, and contact the original parents to notify them of the death. This should be implemented as soon as practicable.

#### **RECOMMENDATION**

*That the Western Australia Government notify any mother about the death of her offspring and that this be implemented as soon as practicable.*

## **Counselling**

Recommendation 8 of the Senate Inquiry into Past Forced Adoptions states that “the Commonwealth, states and territories urgently determine a process to establish affordable and regionally available specialised professional support and counselling services to address the specific needs of those affected by former forced adoption policies and practices.” This has not been adequately addressed. While DSS has distributed funds to the states and territories to be given as grants to organisations and individuals, counselling is specifically excluded. It has arguably been the greatest need in the adoption community and the one most regularly nominated as lacking. There is urgent need for adoption-specific training for counsellors and psychologists. Counselling needs to be highly skilled and affordable. We have heard too many accounts from our members telling us that they have received counselling for several years for drug, alcohol or mental health issues, before finally feeling safe enough to bring up the baby that was taken from them, only to be told that they should stay on the problem/s at hand and discuss that at a later stage. These counsellors obviously have no concept of the damage done by losing a child to adoption and how it underscores every part of one’s life. This is a critical matter that needs to be addressed immediately. It needs an investment from the government of time and money. It takes time to train counsellors satisfactorily and we have wasted too much time already.

### **RECOMMENDATION**

*Adequate funding should be made available to train existing and emerging psychologists and counsellors about the issues in adoption.*

*Concurrently, funding should be made available to enable members of the adoption community to access high quality adoption-specific counselling services.*

## **Family Preservation**

Rather than spending money on OOHC for children from families in distress, the Government should support the family at the source of the problem. This has been shown time and again through the research that it is more cost effective and has long term beneficial outcomes for those involved. More programs need to be set up to help young parents, to protect women (and men) from family violence, assist those with substance addictions, and to educate young people about birth control, finances and relationships. Currently babies of homeless women are being put into foster care. Instead services should be provided to find a home for the mother and baby, as well as child care to enable the mother to find a job. There needs to be more help with early intervention and ongoing support, and this needs to be built as a long term, well-funded program which would save governments many times more than the amount they will spend on the support of these vulnerable families.

Women need initial support at the time of the pregnancy and ongoing support when and after the baby is born. Data needs to be kept by the government about how many of the children in OOHC come from single mother families, as this would inform service delivery. A future facing service needs to be built on the recognition that current service provision continues to take children from families, in particular in the Aboriginal community, and the only way to truly protect children (and spend less money) is to do things radically differently. This requires creative public policy thinking and courage on the part of governments and bureaucrats.

### **RECOMMENDATION**

*That government should take a systems approach to ensuring that families in crisis do not lose their children into permanent care, by providing extensive, properly funded early interventions to support these families. This should be a long term approach that builds a different future for families at risk.*

## **Senate Inquiry Recommendations**

In addition to those Recommendations from the Senate Inquiry already mentioned, there are others which have not been implemented. We strongly urge that the Western Australian Government take a lead on these recommendations, implementing those areas for which they have responsibility and pressuring the Commonwealth on those areas that fall outside their purview. These are:

Recommendation 3 “state and territory governments and non-government institutions that administered adoptions should issue formal statements of apology.”

Recommendation 11 “the Commonwealth should lead discussions with states and territories to consider the issues surrounding the establishment of funding of financial reparation schemes.”

Recommendation 12 “that institutions and governments that had responsibility for adoption activities...establish grievance mechanisms that will allow the hearing of complaints and, where evidence is established of wrongdoing, ensure redress is available...not conditional on waiving any right to legal action.”

Recommendation 13 “all jurisdictions adopt integrated birth certificates...” “jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to these registers.”

Recommendation 18 “that non-government organisations with responsibility for former adoption service providers (private hospitals or maternity homes) establish projects to identify all records still in their possession, make information about those institutions and records available to state and territory Find and connect services, and provide free access to individuals seeking their own records.”

## **RECOMMENDATION**

*ARMS supports all Senate Recommendations and asks that the Western Australia Government act to bring some urgency to the implementation of those not yet implemented.*

## **Comments on Senate Recommendations**

### **Senate Rec. 3**

To date the Northern Territory has not apologised, giving self-governance in 1978 as an excuse, even though they made an apology to the Stolen Generation. The Western Australian government is encouraged to work with the Commonwealth and other states to bring moral pressure to bear on the NT government to bring this about.

### **Senate Rec. 11**

Financial reparation is a thorny issue for us as mothers. There are strongly held views on both sides about whether to access any such scheme. We are clear that such a scheme should be put in place. We surveyed our members to establish what views they would like us to convey to the Inquiry. We are aware that some are of the view that “the world on a silver platter would never compensate me for what I have lost and how it has affected my life”. There was a consistent theme that while many women wouldn’t want to access the scheme themselves, they believe that there should be financial support for counselling and mental health support and that this would make a major contribution to their wellbeing.

The alternative view put was that “the taking of my child, the stigma, the loss, and the silence that followed have combined to cause me irrevocable harm. I have had ongoing issues with PTSD and depression which have affected my ability to work and left me financially insecure in my early seventies. Financial compensation would be an acknowledgement of wrongful policy and practice and would help me to survive.” And, “no monetary value could ever be placed on my son (he’s priceless) but any compensation would certainly provide an opportunity to leave something behind, as I do not have the means to leave him any funds.” Another wanted financial compensation because she would like to help her daughter – “she has been divorced and I feel her abandonment was a huge part of that. She needs help to bring up her daughters”.

The themes were clearly about acknowledging wrongful policy, providing for our older years when so many work lives were compromised by the mental health issues that were consequent on the

taking of their child; and the desire to help out their offspring. Some women felt it would be fairer if both their child and they could receive compensation for the grief, loss and mental damage incurred.

ARMS is of the view that a financial reparation scheme should be put in place and that both mother and offspring be entitled to apply to it.

## **RECOMMENDATION**

*That a financial reparation scheme should be put in place and that both mother and offspring be entitled to apply to it. It is essential that a public education program be undertaken and include clarifying the difference between compensation and redress.*

## **ARMS RECOMMENDATIONS**

### **RECOMMENDATION 1**

*That the Adoption Act be withdrawn from the statutes and the CYF Act be amended to reflect this.*

### **RECOMMENDATION 2**

*That the government review the regulations and standards of practice to ensure that true meaning and implementation is given to sustaining contact between the child in OOHC and his or her family of origin, including ensuring the Courts uphold that practice.*

### **RECOMMENDATION 3**

*That the government make all efforts to transfer to the Family Court all matters pertaining to OOHC cases given that they are family matters.*

### **RECOMMENDATION 4**

*There should be a pool of money, established and held by government and contributed to by placement agencies, that provides financial support for activities such as these.*

### **RECOMMENDATION 5**

*That the Western Australian Government does not facilitate the placement of a child from another country, where that child is not provided with identifying information about themselves. This information should be provided to the adoptive parents and copies held by the government of the day.*

### **RECOMMENDATION 6**

*That the government fund and develop an information campaign to inform the adoption community of their right to information and encourage them to seek support and apply for that information.*

### **RECOMMENDATION 7**

*That the Western Australia Government notify any mother about the death of her offspring and that this be implemented as soon as practicable.*

### **RECOMMENDATION 8**

*Adequate funding should be made available to train existing and emerging psychologists and counsellors about the issues in adoption.*

### **RECOMMENDATION 9**

*Concurrently, funding should be made available to enable members of the adoption community to access high quality adoption-specific counselling services.*



**RECOMMENDATION 10**

*That government should take a systems approach to ensuring that families in crisis do not lose their children into permanent care by providing extensive, properly funded early interventions to support these families. This should be a long term approach that builds a different future for families at risk.*

**RECOMMENDATION 11**

*ARMS supports all Senate Recommendations and asks that your Government act to bring some urgency to those not yet implemented.*

**RECOMMENDATION 12**

*That a financial reparation scheme should be put in place and that both mother and offspring be entitled to apply to it. It is essential that a public education program be undertaken and include clarifying the difference between compensation and redress. Consideration will need to be given to providing fair and equal access to women who either didn't live or no longer live in Western Australia but who had their children taken in your State.*