

## Beyond Sorry — the first steps in laying claim to a future that embraces all Australians

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To the stolen generations, I say the following: as Prime Minister of Australia, I am sorry. On behalf of the government of Australia, I am sorry. On behalf of the parliament of Australia, I am sorry. I offer you this apology without qualification.<sup>1</sup>

Just 80 days into his term, on 13 February 2008, the Prime Minister initiated a process to heal a wound over 70 000 days in the making,\* creating an Australia beyond *Sorry* — the first steps in “laying claim to a future that embraces all Australians”.<sup>1</sup>

While the specific context of the Prime Minister’s Apology related to the Stolen Generations,<sup>3</sup> through its acknowledgement of “this blemished chapter in our nation’s history”<sup>1</sup> the Apology was conveyed to *all* Indigenous people. Its profound effect on so many Australians shed forever any doubt about the importance of symbols. For many, it represented a genuine acknowledgement of the ancient ties between Indigenous peoples and Land and Country, and the acceptance of Indigenous people as valued citizens of contemporary Australia.

Many of us would agree with the Prime Minister’s declaration that “We today take this first step by acknowledging the past and laying claim to a future that embraces all Australians”.<sup>1</sup>

For thousands of Australians, the day of the Apology is a memory highly charged with emotion. Together we were uplifted. There was the relief of feeling a restored sense of decency,<sup>4</sup> that our understandings of right and wrong are now reflected by our leadership, that our “national stories and aspirations are shared”.<sup>5</sup> Underscoring this were the formal Smoking and Welcome to Country ceremonies that marked the opening of parliament on the previous day — all of which offered migrant Australia a first taste from the well of authentic belonging.

For Aboriginal people, the day of the Apology will never be forgotten. For members of the Stolen Generations, there was the release of at last being believed, of having their suffering acknowledged, of feeling safe to reveal that “this is what happened to me”. For many Indigenous people, there is a sense of having to regather and reorient to the reality that this Apology and acknowledgement has come in their lifetime and that lasting change may be possible. Patrick Dodson, the acknowledged “father of reconciliation”, remarked on the day of the Apology:

We have on the table before us a clean page on which great things may be written, a page that future generations of Australians ... might read with pride and recognise the moment when hope re-emerged.<sup>6</sup>

On a personal note, another Elder further commented:

People feel they can look at me now ... Before, when I walked up the road, people seemed to look away. It was as though it was a shame for them. Now, I notice people look right at me; and they are smiling. (Personal communication to SAF, Redfern, February 2008; reproduced with permission.)

\* It was at the time of the 1816 punitive expeditions that Governor Macquarie gave orders for his military detachments to bring back children to be placed in the Native Institution at Parramatta. This marked the start of the notion that children can be forcibly removed from their families by the state.<sup>2</sup>

### ABSTRACT

- The Prime Minister has issued a formal, unqualified apology to Australia’s Indigenous peoples for past mistreatment, particularly for the sufferings of those who were affected by the forced removal of children from their families.
- The Apology needs to be seen as the first step in a reparations process that adheres to human rights principles, involves Australians at all levels, is sustainable and upholds self-determination.
- The Apology is the first of five steps recommended in *Bringing them home: the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*. Further steps are: guarantees against repetition, measures of restitution, measures of rehabilitation, and monetary compensation, but the Prime Minister has steadfastly refused to discuss reparations or compensation.
- Monetary compensation has been recognised internationally as an essential component in the redress for similar experiences of the forced removal of children. As long as the final steps in reparation remain unresolved, they will obstruct our pathway to a future that embraces all Australians.

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As it was in the weeks leading up to the Apology, the question of whether the Prime Minister needed to apologise is still contested by many.<sup>7,8</sup> What should now follow is also contentious. In the journey towards a future that embraces all Australians, the best ways forward are hotly debated and disputed. Rather than these disputes being seen as a problem, this whole debate should be recognised as a strength, a sign of the willingness of Australians to participate in the political process and to agree that reconciling our shared history is a work in progress, and not an end in itself.

To assist in determining the path forward, we suggest the debate be guided by the following principles, which are based on a human rights approach:

- The Apology, along with the acknowledgement of the fact and the consequences of forced removals, is a significant but first step in an internationally recognised reparations process.<sup>3</sup>
- Actions to improve the life chances of Aboriginal people must have a strong adherence to established human rights principles. These principles, which apply to all Australians and have been actively promoted by the Aboriginal and Torres Strait Islander Social Justice Commissioner, are as follows:

- *No discrimination*: a guarantee of equal treatment and protection for all. Equal protection includes recognition of distinct cultural characteristics of particular racial groups (substantive equality), and can require temporary special measures of assistance to overcome inequalities;

- *Progressive realisation*: the commitment of sufficient resources through well targeted programs to ensure adequate progress in the realisation of rights over time;
- *Effective participation*: ensuring that individuals and communities are adequately involved in decisions that affect their wellbeing, including the design and delivery of programs; and
- *Effective remedies*: the provision of mechanisms to redress any violations of human rights.<sup>9</sup>
- Improving the life chances of Aboriginal and Torres Strait Islander peoples becomes the work of all health workers, representative organisations and governments,<sup>10</sup> and, by implication, the business of us all.
- Lessons of past successes and failures are not forgotten, but instead are built on in ways that ensure long-term sustainability and self-determination.

No discussion of the Stolen Generations can occur without considering the rights of children: “In all actions concerning children, the best interests of the child is a primary consideration.”<sup>11</sup> This issue has occupied the minds of advocates throughout the 20th century,<sup>12</sup> just as it dominates discussion today: “If we are genuinely committed to protecting our children then we must ensure that the actions that we take are sound, into the longer term.”<sup>13</sup> Actions must be community-generated, created with genuine community engagement, and built on partnership; they must recognise the need for community development and adopt a holistic approach.<sup>13</sup>

That the Prime Minister would not discuss reparations or compensation during the lead-up to the Apology, and has not moved away from this position even now, will be an important feature of future commentary. Since coming to office, the Prime Minister — together with the Council of Australian Governments, Indigenous and non-Indigenous health leaders and the Leader of the Opposition — has made substantial commitments to improving Aboriginal health.<sup>10,14-16</sup> He has couched this very public commitment in terms of making amends to the Stolen Generations. He is being politically pragmatic in a climate in which many in the electorate will not support additional resources for Indigenous people, notwithstanding the fact that for decades there has been substantial need and persistent underfunding in every part of the Indigenous world.<sup>17</sup>

The Prime Minister is not alone in his refusal to commit to the reparation process recommended in the *Bringing them home* report.<sup>3</sup> Most states and territories, with the notable exception of Tasmania, have acted similarly, being selective in the recommendations to which they have committed.

In 2006, the Ministerial Council for Aboriginal and Torres Strait Islander Affairs found that, in nine out of 22 distinct comparisons of available national Indigenous data, the removed population had worse economic and social characteristics than the population that had not been removed; and none of the comparisons showed the non-removed population to have worse characteristics than the removed population.<sup>18</sup>

Why say all this?

In the flurry of negative media reports surrounding Aboriginal affairs, it is easy to overlook the successes. It is Aboriginal initiative in the development of intensive family support and antenatal care models that now underpins the federal government’s promotion of early childhood interventions as a frontline strategy in addressing Indigenous disadvantage.<sup>19-21</sup> Why, then, does the government ignore international precedence on the issue of reparations? A distillation of international reparations practice produced the following five principles, set out in Recommendation 3 of *Bringing them home*:<sup>3</sup>

- Acknowledgement and apology;
- Guarantees against repetition;
- Measures of restitution;
- Measures of rehabilitation; and
- Monetary compensation.

The Prime Minister has made a guarantee against repetition, but this is not wholly a national jurisdiction issue — it involves the agreement and commitment of the states and territories. Similarly, measures of restitution, rehabilitation and monetary compensation would require agreements and commitments involving all levels of government.

It is hard to disagree that a person who has suffered harm has a moral, if not legal, right to redress. Monetary compensation is recognised internationally as an essential component in the redress for similar experiences of the forced removal of children. First Nations, Inuit and Métis children were placed in residential schools established by the Canadian Government and a number of churches from the late 1800s. In recent times, under the Canadian Government’s Indian Residential Schools Settlement Agreement, \$1.9 billion has been allocated for a “common experience” compensation payment; \$960 million for claims of serious physical or sexual abuse; \$60 million for a 5-year truth and reconciliation commission, community events and research centre; \$20 million for memorials and commemorative events; and \$125 million for a Healing Foundation.<sup>22</sup> Former residents are entitled to \$10 000 compensation for their first year spent at a residential school and \$3 000 for each additional year, and they do not have to prove harm in order to qualify for payment. This is just one of a number of international examples of compensation granted to children forcibly removed that were put to a recent senate inquiry into compensation of Stolen Generations.<sup>23</sup> The inquiry will hand down its findings later this year.

We Australians have had no trouble understanding the collateral damage from the collapse of Ansett Airlines,<sup>24</sup> or the claim for damages against James Hardie Industries by asbestos victims,<sup>25</sup> or the right to repatriation and service benefits for those who served their country in the many arenas of war over the years. Why, then, should we find it so difficult to recognise the harm done by removing children from their parents and compensate them for it? We are, after all, only talking about a people who make up 2.5% of the Australian population, and only a part of that group would, under any circumstances, be in a position to make compensation claims.

As health workers, we know that the failure to recognise this injustice will inevitably perpetuate anger, stress, poor health and other negative economic and social outcomes among survivors of the Stolen Generations and their families.

The fact that the Apology recommended by the *Bringing them home* report took 10 years to happen cannot be taken lightly. The potency with which it was imbued — the breadth of the engagement across schools, community groups and more, the outpouring of emotion and relief — is related to the length of time it has taken. Aboriginal people also realise that taking the time now — first of all, to process how this event will affect their emotional wellbeing, but also, significantly, to reframe the terms of engagement with Australia as a whole — will be important. It will affect how non-Indigenous Australians feel about their role here in Australia, whether they be recent immigrants or descendants of people who arrived generations ago.

Distinguishing the means to address and make amends for the particular hurts felt by survivors of 20th-century removal policies<sup>26</sup> beyond those faced by all Aboriginal people will take listening, patience and insight by government leaders. The experience of being removed as a child from their family has left a number of Stolen Generations people with feelings of abandonment; anxiety; complex

identity and mental health issues, including self-blame and lack of self-worth; shock and anger that removals were based on racial policy and state-sanctioned; pain and grief that family bonds were not allowed to be maintained and that they were lied to (eg, being told that their family was dead or had given them away), as well as pain and grief at simultaneous refinding of Aboriginal identity and re-experiencing loss of family, language and culture; intense insecurity in returning to Aboriginal family and difficulties rebuilding family relationships; difficulties with parenting their own children (often leading again to state intervention); and the debilitating reality that, even after the Apology, there are still many who think that governments were doing the right thing at the time. (Personal communication to SAF, Marrickville, April 2008; reproduced with permission.)

Inevitably, while the other four principles of reparations remain unresolved, they will obstruct our path towards real and sustainable solutions for the problems of today. However, redress for decades — nay, centuries — of negligent administration by governments is a human right, not atonement for the wrongs that created the Stolen Generations. The Prime Minister has had the courage to take on what the previous government failed to do. It is our view that he must continue walking down this road until he finishes the job Australia has overwhelmingly endorsed him to do. The Aboriginal population of Australia is about half a million people beside a population of newcomers to the tune of about 20.5 million. How hard can it be to offer redress to those whose families suffered the unspeakable and on whose Land Australia's collective wealth depends?

This, in our view, would be the next step towards a future that embraces all Australians in this post-13 February world.

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### Competing interests

None identified.

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