

**ARMS submission to the Inquiry into Responses to Historical Forced  
Adoptions in Victoria**

Dear Ms Suleyman,

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 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)

February 2020

### **Victorian 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 in a self-help model that has, for thirty seven (37) 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 thirty seven (37) years in Melbourne, and in regional areas either monthly or quarterly for the past eight (8) 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 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, because no family would agree that the child they gave birth to was in fact given birth to by another couple, as stated in the current Adoption Act. “The Child becomes the child of the adoptive parents, as if born to them.” 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. Victoria already has sufficient alternative legal solutions in the Children Youth and Families Act, (CYF) although it also would need to be changed to remove placing adoption in the hierarchy of permanency objectives.

## **RECOMMENDATION**

***That the Adoption Act be withdrawn from the statutes and the CYF Act be amended to reflect this.***

### **Who Holds Responsibility? NGO or Government**

It is a clear legal presumption that the State is responsible for the welfare of children. Historically, Victoria has outsourced this responsibility to the plethora of NGOs that service this State. It is our view that this is an abdication of the State's responsibilities and has enabled poor practices to develop and continue with little thorough oversight. It is anachronistic in the 21<sup>st</sup> century to continue this system particularly in light of the negatives in this arrangement. To build a future that is free of the overlay of corruption and mismanagement of past adoption practices, it should be the exclusive responsibility of the State to provide the services in the CYF Act. There are a number of reasons beyond this fundamental one to support this proposal.

- The existing NGOs were part of the forced adoption machine and it is not acceptable that they are still facilitating adoptions or out of home care placements.
- As much as they may present their practice as being 'impartial' any religious view colours attitudes, values and therefore counselling and other services placed within those organisations. Given the 'sanctity of life' view of the Church, adoption is considered a more acceptable alternative to abortion. The State has a responsibility to ensure that services of this nature are provided in a values neutral environment, which cannot be achieved while the services are provided by Christian organisations. A young, vulnerable pregnant woman is entitled to be confident that the advice she is receiving is unbiased and includes the full suite of options available to her. Further, a family in the child protection system is entitled to a values neutral service.
- Consolidating these services back to the government would reduce costs, especially in light of the very low numbers of adoptions and the costs of staff, overheads, professional development to ensure staff are using current best practice, and the upkeep of prospective parent lists. The government as the only provider of child protection matters would ensure consistency of service quality as well as enabling

the community to hold the government accountable for a service that has the most serious of consequences for a child and family.

## **RECOMMENDATION**

***That the government withdraw service provision rights to all non-government agencies and become the sole provider of all aspects of OOHC placements, including adoptions, should that remain on 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 the current and previous NSW governments and accounts for the current very high numbers of adoptions in that State. While Victoria has not moved in that direction under this government, the 2014 amendments to the CYF Act provide that opportunity, and practice changes occur with changes in government. 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. As a child focused service it 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 2018/19 Report states that there were 310 adoptions throughout Australia last year – 42 local, 211 known and 57 inter-country adoptions (excluding an unknown number of expatriate adoptions). Of the 42 local adoptions, 90% 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 38% 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.

## **Out of Home Care**

ARMS was alarmed when the Victorian Government assented to the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014 Section 167(1) to include adoption as the third option (following family preservation and family reunification) and ahead of permanent care and long term out-of-home care in the hierarchy. The then Opposition told us that adoption would be taken out of the hierarchy completely if they won the next election, which they did win. Unfortunately it has not been rescinded, although we have been assured by the then Minister for DHHS, Jenny Mikakos, that adoption would not be used in OOHC. This has so far been the case. However, were the

public policy environment or the government of the day to change, this cannot be guaranteed.

## **RECOMMENDATION**

***That the Government remove adoption from the hierarchy of care in the CYF legislation.***

Again referring to the AIHW Report, 67% of known adoptions were by carers (mostly foster parents). While adoptions overall have fallen, known adoptions by carers have gone up from 63% in the previous year. This is largely due to the NSW Government's program of foster to adopt. This demonstrates the urgent need to rescind adoption from the OOHC hierarchy in Victoria to ensure this will not happen in Victoria. Foster care should not be seen as a back door to adoption. Indeed in NSW it is blatantly used as a front door to adoption. The impact NSW is having on the community with regard to OOHC is alarming. Adopt Change (an adoptive parent organisation) has been vociferous in their quest to make adoption quicker and easier and has successfully tendered to manage adoptions, OOHC placements and post adoption support. It is a scandal that adoptive parents and those in the adoption business are in charge of organising adoptions and out of home care in NSW. It would be very useful data to know how many of the 67% known adoptions by carers formally and legally retained links to their family. And further, how many have active meaningful access to their family of origin. That there were only three (3) known adoptions in Victoria last year is testament to the values base of our system.

## **RECOMMENDATION**

***That the Victorian Government seek agreement from all Social Welfare Ministers to create a database that gathers a range of relevant data to inform future practice.***

### **Intercountry Adoption**

In Victoria there were twelve (12) local adoptions, three (3) known adoptions and eight (8) intercountry adoptions – three (3) of which came from Hague signatory countries and five (5) 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 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, 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 much representation to Governments about *their* needs, and those of their original families. Kate Coghlan, a Vietnamese born Australian adoptee is currently working with other Vietnamese adoptees on an event they’re holding in Vietnam in April this year. It is a celebration of Vietnamese mothers 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. The event is acknowledging the pain, suffering and silent grieving that the mothers have endured and they will meet Vietnamese adoptees from around the world to share stories and create networks. Kate Coghlan 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 Victoria 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 Victoria 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 Victorian 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 Victorian Government work with other states to collect relevant data in relation to ex-pat placement.***

***Any couple who has qualified for an ex-pat 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 7% of requests for identifying information were made by mothers while 69% were by adopted people. 72% 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.***

## **Birth Certificates**

The truthful recording of a birth is fundamental to a person's identity. We support truth being available and reported, and also believe that an adopted person should be able to choose the extent to which they reveal their status to a public institution or person. One option that we support is to have the adopted family details on one side (Schedule 2) and the original family on the other side (Schedule 6). That enables some choices for the adopted person about the extent to which his/her genealogy is revealed.

In our view the original certificate issued must have both sets of names in equal status. The adopted person can then apply for a full Certificate carrying the names of whichever set of parents s/he wants on the birth certificate for daily use. Both should be recognised as legal documents of identification by all relevant authorities. The child of say (12) twelve years old could make a decision about which Certificate they would prefer, which would require a conversation with the adoptive parents about the adoption, therefore opening up positive communication.

Recommendation 13 of the Senate Inquiry states that all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and that jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers. We are interested to hear what action has been taken with regard to harmonisation of BDM register access and facilitation of a single access point, and why it is taking so long to complete. What action can the Victorian Government take to expedite this?

Prior to the integrated birth certificates being implemented, as an immediate action, when a child's birth is registered, the first name given to that child by his/her mother should not be changed.

### **RECOMMENDATION**

***That the Victorian Government immediately ensure that a child placed in permanent care or adoption does not have his/her birth certificate altered to change his/her first name.***

***That the Victorian Government hold discussions with other States and Territories to pursue a national framework to ensure consistency, and provide better access to information about identity and adoption history.***

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

### Funding

Access to information as a right is partly resolved, but the resources to publicise this change are scarce. Most mothers (and fathers) are not aware that they have the legal right to search for their son or daughter. Natural parents are not entitled to birth, death and marriage certificates in the same way adoptees are. This means that a natural parent undertaking a search for their adult child is not able to apply to BDMs to establish whether the person has died, married or legally changed his/her name. At the instigation of ARMS and two adoptees from Jigsaw and GAP, VANISH was established and currently is funded to support Victorians affected by adoption in their search for information about their original family or taken son or daughter. However they had fixed term funding for counselling and regional groups for two years which was then discontinued. Increased operational costs are not matched with increased funding. Their funding is not adequate to deliver a state-wide service to people affected by forced adoptions. It is the only funded service that is managed and provided by members of the adoption community. It is a metropolitan based service and the shortfall in funding makes it difficult to undertake adequate outreach into regional Victoria. ARMS members benefitted from the regional counselling service VANISH was funded to deliver until 2018 and would have preferred that service had been continued because free, accessible specialist counselling is a fundamental requirement for mothers. On many occasions when ARMS members have contacted us, we have referred them to VANISH for their search services or a list of counsellors who are trained in Through The Lens of Adoption in their area. Further, for those affected by adoption, the costs of independently undertaking the search process can be prohibitive and time consuming and their lack of skill, lack of access to relevant records and the emotional overlay all contribute to the difficulties of establishing contact with a family member. It should be noted that VANISH was asked by the State government to extend its services to the Forgotten Australians and it also includes donor conceived people and former child migrants as clients of the service. Expanding the support service for searching and for self-help emotional support are key to truly ameliorating the impact of devastating public policy and to this end, improving funding to this organisation is essential.

In light of the value and need for self- help support and the long history of ARMS' work in this space, we believe that funding our organisation will enable us to continue our valuable work with both mothers and as educators in the community. This would be a tangible and valuable acknowledgement, as well as a practical support that would relieve the committee

of the tasks of both funding our organisation (which we have done out of our own pockets for 38 years) and fundraising for the events we undertake. It would take a considerable burden from our volunteers and facilitate a more secure future for our organisation.

## **RECOMMENDATION**

***That significant additional funding should be made available to VANISH to enable it to better meet the needs of the groups who have been affected by family destruction through public policy.***

***That the Victorian Government fund ARMS(Vic) to continue to undertake its work in the community.***

## **DSS Funding (Grants Program)**

ARMS has received several grants to run self-healing events, outreach to regional areas with support groups, build a website for our organisation and publish materials for members and the general community. As a not-for-profit self-funded organisation we are grateful to receive these grants. However we are astounded that NGOs such as Anglicare and Connections, who are agencies that were actively involved in separating mothers and babies, and have caused huge trauma and humiliation to many women, have also received grants through the Compass program. It is our view that the monies allocated to those who were affected by forced adoption should be available only to that group. Those agencies received funding to digitise catalogued photos and improve storage and access to archival material in past maternity/children's homes, and offer mental health first aid training to staff members dealing with those affected by forced adoption. While these are admirable programs, we believe the funding should come from within Anglicare and Connections, not from DSS funding. It is outrageous that these agencies would put out their hand to undertake what they perhaps consider basic acts of reparation, but that we believe they should see as their responsibility to undertake with their own funds.

Further to this, Recommendation 10 of the Senate Inquiry states: "that financial contributions be sought from state and territory governments, institutions, and organisations that were involved in the practice of placing children of single mothers for adoption to support the funding of services described... ". We are not aware of any financial contributions having been made by those adoption agencies, hospitals or babies homes. Rather than receiving "our" monies, they should in fact be funding our projects. We would ask that the Victorian Government work with the DSS to accomplish this.

## **RECOMMENDATION**

***That the Victorian Government work with DSS to require all agencies previously connected with the provision of adoption services to undertake financial and other reparation.***

## 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. In Victoria, funding from DSS is passed through RAV, an organisation with no previous practise or experience in adoption related issues prior to receiving the tender. Since then they have had some training from VANISH. Largely the feedback from our members has not been positive. On 19<sup>th</sup> March 2015 RAV’s media statement said in part: ‘Compass Clinical Coordinator Julia Douglas said “We are providing information, telephone support, counselling and referral to individuals who identify as being affected by forced adoptions...” ‘ We understood this statement to mean that RAV would provide counselling, (which we assumed would be free, as part of the funding from the Federal Government) but instead applicants were giving ‘warm referrals’ to other counsellors. We were pleased to be told recently by the current Compass coordinator that RAV is now including counselling as part of their service. However, it is not being provided as part of the DSS funding, and RAV cannot tell us how many sessions any one individual could have, nor over what period of time. Prior to receiving the DSS tender RAV had no history in adoption services whether as a placement organisation or as a post adoption counselling support service. Their knowledge and experience in the field is therefore quite limited. VANISH is an organisation that solely services people who have been affected by adoption and other separations and therefore is a better fit to be running the FASS program in Victoria. At the very least their “Looking Through The Lens of Adoption” training program should have increased funding. If this won’t be done through the DSS funding, the Victorian Government should pick up the funding of it as part of its response to ameliorating history.

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**

***Additional funding is needed to ensure the VANISH “Looking Through The Lens of Adoption” training program is sustained.***

***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. We are concerned that parents losing their parenting payments when the child turns eight (8) runs the risk of forcing a rise in adoptions, or at least in OOHC placements. Parenting Payment needs to be reinstated and ongoing until the dependent child is 18 years of age. Further, 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.***

### **Open Adoption**

Victoria is the only state that legally mandates open adoption. While this is not an ideal approach, it does ensure that some children are not permanently severed from their family of origin. We encourage the Victorian Government to work with Social Welfare Ministers from other states and territories to expand their OOHC options by amending their adoption legislation to ensure that any adoption is an open adoption, and that permanent care is treated as the preferred alternative when a child is unable to be returned home or into kinship care.

In the absence of the withdrawal of adoption from the statutes, Open Adoption in Victoria needs to include a no-cost, independent legal service for the “relinquishing” mother, prior to and during the Court proceedings. Details of the access and ongoing contact must be included in the Adoption Order so that they can be relied upon and are legally binding.

### **RECOMMENDATION**

***Independent, free legal support be made available to any person providing a Consent to Adopt, or where there has been a dispensation, including until the conclusion of the Adoption Order.***

### **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 Victorian 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 our 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 Victorian 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.***

#### **IVF children**

While the government is focussed on cleaning up the mess of wrong information that BDM currently legally provides, we hope that it might also work to remedy the problems of birth records in the field of IVF. We know that birth records have been falsified, destroyed and mismanaged to ensure donor anonymity. This practice has created serious harm for donor offspring and their families and should be a matter of great concern to government. To avoid this continuing, and to ensure the integrity of legal records, the government should take this opportunity to ensure agencies and hospitals create accurate records and transfer them to the central register.

#### **RECOMMENDATION**

***That the government ensure all records of ivf offspring are accurate, complete and transferred to the central register.***

#### **Guardianship of St Andrew’s Reserve**

One excellent project that has come out of the Apologies is our memorial ‘Taken Not Given’ and the commitment made by the Melbourne City Council that we be guardians of the site on which the memorial stands. The memorial has provided a focal point for our members and others in the adoption community, as well as those in the general community. It is playing a role in informing the community about our experiences. This has become a really

important dimension of healing and acknowledgement for our community. Melbourne City Council has made further commitments that some infrastructure will be built on the reserve, such as an amphitheatre and a water feature. We are currently in discussion with the MCC and the Office for Women about a proposed Family Violence Memorial on the site. We greatly appreciate Daniel Andrews and his government's thoughtfulness and generosity in responding so positively to our initiative of this memorial.

### **Without Consent Exhibition**

You may be aware that Senate Recommendation 20 was implemented in the form of the Without Consent exhibition which has travelled around Australia. It is currently exhibiting in Adelaide, which will be its final location, and as a travelling exhibition it will then be concluded. We believe that this is an important piece of research and work and that it should be transformed into a permanent exhibition. We are requesting that the Inquiry make a recommendation that the exhibition be protected and developed so that it becomes permanent.

We have had some initial conversations with NAA representatives to discuss the possibilities of using the work already done as the basis for this. We understand that there would be costs involved in securing a venue, calling for and curating works and transforming the existing works into a permanent format. We are asking that the Victorian Government finance and facilitate this project.

### **RECOMMENDATION**

***That the Victorian Government undertake to become guardians of the Without Consent exhibition and support the transformation of it into a permanent exhibition that is housed in Victoria.***

### **Victoria needs to work with other State Governments**

Victoria is undoubtedly the policy forerunner in out-of-home-care, adoption and permanent care, as well as with its recognition of the importance of the self-help movement and groups such as ours in the adoption field. It is vitally important that Victoria takes the lead in adoption and OOHC practices, rather than NSW, with its 'quicker and easier' adoption mantra. Victoria needs to use its success in this field and its vision to initiate discussions with Social Welfare Ministers of all states and territories to take a national uniform approach to the implementation of a permanent care model that does not include adoption. That discussion needs to include as an interim measure, using an open adoption model, as a prelude to the rescinding of all Adoption Acts in Australia. We are heartened to know that the Queensland Government encourages guardianship and simple adoption before adoption because Minister Di Farmer acknowledges the harm this does to families.

## **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 withdraw service provision rights to all non-government agencies and become the sole provider of all aspects of OOHC placements, including adoption, should that remain on the statutes.*

### **RECOMMENDATION 3**

*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 4**

*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 5**

*That the Government remove adoption from the hierarchy of care in the CYF legislation.*

### **RECOMMENDATION 6**

*Victoria seek agreement from all Social Welfare Ministers to create a database that gathers a range of relevant data to inform future practice.*

### **RECOMMENDATION 7**

*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 8**

*That the Victorian 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 9**

*That the Victorian Government work with other states to collect relevant data in relation to expat placement.*

**RECOMMENDATION 10**

*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.*

**RECOMMENDATION 11**

*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 12**

*That the Victorian Government immediately ensure that a child placed in permanent care or adoption does not have his/her birth certificate altered to change his/her first name.*

**RECOMMENDATION 13**

*That the Victorian Government hold discussions with other States and Territories to pursue a national framework to ensure consistency, and provide better access to information about identity and adoption history.*

**RECOMMENDATION 14**

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

**RECOMMENDATION 15**

*That significant additional funding should be made available to VANISH to enable it to better meet the needs of the groups who have been affected by family destruction through public policy.*

**RECOMMENDATION 16**

*That the Victorian Government fund ARMS organisation to continue to undertake its work in the community.*

**RECOMMENDATION 17**

*That the Victorian Government work with DSS to require all agencies previously connected with the provision of adoption services to undertake financial and other reparation.*

**RECOMMENDATION 18**

*Additional funding is needed to ensure the VANISH “Looking Through The Lens of Adoption” training program is sustained.*

**RECOMMENDATION 19**

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

**RECOMMENDATION 20**

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

**RECOMMENDATION 21**

*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 22**

*Independent, free legal support be made available to any person providing a Consent to Adopt, including until the conclusion of the Adoption Order.*

**RECOMMENDATION 23**

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

**RECOMMENDATION 24**

*That a financial reparation scheme should be put in place and that both mother and offspring be entitled to apply to it.*

**RECOMMENDATION 25**

That the government ensure all records of IVF offspring are accurate, complete and transferred to the central register.

**RECOMMENDATION 26**

*That the Victorian Government undertake to become guardians of the Without Consent exhibition and support the transformation of it into a permanent exhibition that is housed in Victoria.*