



**INTERNATIONAL ASSOCIATION OF
FORMER CHILD MIGRANTS
AND THEIR FAMILIES**

**SUBMISSION FOR THE ROYAL COMMISSION'S
CONSULTATION ON REDRESS
AND CIVIL LITIGATION**
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Photo: Perth, Western Australia – April 2014

1. INTRODUCTION

We welcome the work of the Royal Commission. The British Child Migrant schemes have left us with a legacy of betrayal and life time consequences of childhood abuse which are well documented. Shamefully, we have been denied justice. Denial has been the consistent response for decades.

Without the professional work of the Child Migrants Trust we would still be in the wilderness. It has taken almost three decades to reach this positive consultation. Finally, child migrants are asked to contribute to the question of redress and civil litigation.

Justice can be delivered in many forms; redress is one important element. But not the only one. Child migration is the clear responsibility of the Commonwealth Government. Failing to make this important distinction is to fudge areas of responsibility and accountability.

We have consulted widely with former child migrants and the overwhelming response is support for a **national redress scheme**. Those involved in past abuse should have no role in the administration of redress. Not only have they been involved in horrendous crimes against humanity, those who could have saved us turned their back on us.

We were nobody's child in their view. No one would come to rescue us from these, in some cases, evil child abusers. There was no-one to turn to during our childhood in captivity.

Our identity as child migrants differs in many respects from the circumstances of 'Forgotten Australians'. We thank the Commission for recognising these significant differences. CMT has reported in various parliament reports that child migrants were the most vulnerable children in Australia as a consequence of our complete isolation in this country and any possibility of rescue or restoration of relationships with our families. Trafficked for the purposes of sexual exploitation – this Royal Commission is welcome, but has been a long time coming.

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PRESIDENT: NORMAN JOHNSTON

SECRETARY: DESMOND MCDAID

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2. INTERNATIONAL ASSOCIATION OF FORMER CHILD MIGRANTS AND THEIR FAMILIES

The Association was established in 1994 and has consistently pursued a social justice agenda for recognition and services for former child migrants and our families. We have given evidence before parliamentary inquiries in both the UK and Australia. Working closely with the Child Migrants Trust as its client advisory group, and partner in campaigning for justice and recognition, the Association played a key role in both the Australian and British national apologies.

In 2002 the Association co-hosted an International Congress on child migration in New Orleans. The Congress resolutions (*see Appendix 1*) show the development of policies to pursue international justice for former child migrants and our families over twelve years ago. These have only now begun to be realised as western societies finally get the message that historical abuse is a crime now, and has always been a crime. Unless we squarely face up to it, those institutions and perpetrators that used the veil of church and charity to hide their appalling crimes will remain free to hurt the children of today and tomorrow.

It is never too late for justice, but former child migrants feel disappointed and angry it has taken so long for action such as this Royal Commission. The Australian Government heard our evidence at the 2001 Senate inquiry but took no action to address historical abuse, including institutional sexual assault, let alone take measures to prevent further abuse.

Following is an extract from the International Association's submission to the Senate Inquiry into child migration, 2001:

'Sixty years and more after we were forcibly removed to Australia, thousands of former Child Migrants yearn for justice, for recognition, and for the chance to be with our mothers, fathers, brothers and sisters.

This shameful episode in British/Australian Commonwealth history is a chapter of sordid vested interests. Children being used for political and religious objectives. There are many lessons to be learnt from our collective experiences of abuse and exploitation. This national inquiry in Australia has been needed for decades. The Association strongly believes the complex issues involved deserve and require a full Judicial Inquiry. Whenever abuse of children is exposed, particularly on this scale, involving at least two countries and other powerful institutions and organisations, there is a need and an expectation that a formal investigation should be forthcoming. Any decent society would expect no less. Unless we learn from the past we destroy the possibility for change in the future.

Child migration to Australia remains a poorly understood chapter in Australia's Commonwealth history. Myths, misunderstandings and deliberate deceptions are deeply woven into this sorry saga. Human rights abuses on an unprecedented scale, in our view, are denied by the federal and state governments. Present day government responsibilities are shrugged off. The charities and churches who played a major role in the abuse and deception still deny their culpability, and speak of 'good intentions'.'

3. PROPOSED NATIONAL REDRESS SCHEME

In relation to the various models of redress schemes, for former child migrants the only viable and safe choice is a national scheme.

When we were deported to Australia, the Federal Government was our legal guardian – our custody was delegated to the States and then contracted to the agencies. Nothing absolves the Commonwealth of its relationship and responsibility to the children it actively sought to bring from the UK for what now appears a racist policy to boost the population with 'good white stock.'

In relation to the option of State based schemes, look no further than the steadfast refusal of the two largest States, NSW and Victoria, to even discuss redress. The variations between Tasmania, Queensland and Western Australia's redress schemes have further entrenched discrimination across the child migrant community. Many of us have had no access to any form of justice. Occasionally, sibling groups were split between the States, giving some an opportunity for modest redress and leaving others with the same we've always had – nothing.

The third option of institutional based redress has already been tried and found hopelessly wanting. The churches and charities are desperate to maintain control and protect their public relations image following the gradual exposure of long term systemic abuse and their protection of serial offenders over the interests of vulnerable children. The Catholic Church's 'Towards Healing' program is a prime example of what happens when you allow perpetrators to take control of mopping up their own mess – further abuse of power and no recourse to any form of justice. They try to buy us off with non-negotiable low offers, using familiar tactics to intimidate and control, knowing we are ageing and desperate for an end to it all. This has all been known and understood for a very long time.

Below is a further extract from our submission to the Senate Inquiry in 2001:
'The Association is increasingly disturbed at the renewed attempts by governments, churches and charities to deceive child migrants and their families with dubious offers of help. For decades, the departing agencies withheld vital information which would have helped former child migrants to find their families. No authority wanted to help us. Nowadays child migrants are being seduced into returning for 'help' to the discredited agencies that deceived us and our families when we were children.

Some former Child Migrants have maintained strong links with the departing agencies. We acknowledge that for some child migrants their identity is so tied up with these agencies that liberation and self-respect will be a long time coming – if ever. The shackles that bind us to an abusive childhood are very heavy.'

The Association supports the Royal Commission's suggested option for a National Redress Scheme as the only fair and safe way to apply uniform assessment criteria. Provided the scheme is managed by the federal government, we agree it is appropriate that contributions to the scheme are sought from state governments and institutions to reduce the burden on tax payers and levy some form of consequences on those agencies that breached the trust placed in them.

4. KEY ELEMENTS OF A NATIONAL REDRESS SCHEME

1. The provision of **meaningful redress payments** on a scale reflecting the severity of abuse, vulnerability of the child and other issues regarding the institution and perpetrators is the most significant and needed response.
2. **Affirmative acknowledgment**, whether a written apology or a statement of findings will help some former child migrants feel heard and vindicated.

3. **Independent and professional social work services** such as the Child Migrants Trust are a vital part of our recovery and should be endorsed and supported through a national redress scheme.
4. Our **historical child care records** remain largely in the custody of institutions that betrayed our trust and failed to protect us from predators. For decades they refused to allow us access to our own histories. This power imbalance must be corrected by the removal of our personal records from agencies. They should be placed in a government archive where confidentiality will be protected and there is no risk of eventual loss or destruction should an agency close or or change its identity. Those records are our past, present and future. They have vital importance for us and our families in years to come.

5. ROLE OF INSTITUTIONS IN A NATIONAL SCHEME

The historic power imbalance between residential child care providers and former child migrants remains a major roadblock to our recovery from institutional abuse. We recognise the dilemma in seeking cooperation to fund a national redress scheme equates to negotiating with the agencies rather than holding them to account and removing their power and influence, as justice requires. Our preference would be for government to seize their assets where agencies such as the [REDACTED] have been exposed as little more than an international paedophile ring with an entrenched culture of predatory, serial abuse and cover up. They should be thrown out of the country – it is an indictment on our society they remain allowed to operate, let alone have access to children.

If, as a compromise, the agencies are permitted to continue and encouraged to participate in a national redress scheme, they can have no involvement beyond financial contribution. If somebody robs your house, you don't seek them out to discuss how their criminal conduct made you suffer and then let them decide what your suffering is worth. How much more so, when they destroyed young lives through criminal abuse and then protected the perpetrators and denied the abuse for decades?

Our consultation across the child migrant community confirms the view that institutions and their representatives' role should be limited to the provision of documentary evidence confirming residence at the institution, and financial contribution at a level determined by government to a national redress scheme.

The Association recognises some former child migrants see value in written apologies from the agencies for historical abuse. That is an individual decision and we support mechanisms within a redress scheme for that to occur, if requested. However, we are concerned any such option is easily manipulated into a re-assertion of power and have seen many agency apologies over the years devalued by mitigating statements such as: *'There were so many children and our staff were low paid and poorly trained;'* or: *'We feel sorry that you feel you were not treated well as a child.'*

These kinds of conditional apologies are simply further denials of responsibility that limit liability and are often perceived as adding insult to injury.

6. ASSESSMENT OF MONETARY PAYMENTS

Many former child migrants have experience of redress schemes, and a common complaint is the inconsistency of assessment and variations in payments awarded. The Association supports the proposal of the appointment of an assessment panel including legal, medical, psychological and criminal justice expertise. We strongly recommend panel members are fully independent from any association with past institutional 'care' providers.

Our preference is for a written application process, if skilled and independent professional help is offered to assist former child migrants complete their application and provide support before, during and after the process. For child migrants, CMT has proven its expertise and competence over the years supporting child migrants through various redress processes. At this stage, particularly as many former child migrants are becoming older, facing a redress process that required assessment interviews in person is likely to discourage some people from seeking help.

We consulted with former child migrants widely regarding the three models with varying cap payment levels at \$100k, \$150k and \$200k. Most people remarked that even the highest payments reflect only a fraction of the pain and suffering we have endured across a lifetime. However, there is an understanding that redress schemes will never match the settlements from civil litigation.

The critical issues most child migrants raised were:

- The national redress scheme should offer a meaningful level of award, which most people felt was offered by the middle or higher level;

- The application process should not be rushed with a tight application deadline, nor should payments be delayed several years as was the case for some child migrants through Redress WA;
- The scheme needs to remain open for a long time to allow for those child migrants who are not in touch with agencies and might not hear of this opportunity immediately;
- Professional, independent support must be available to complete the application and provide help beyond.

7. ADDITIONAL CONCERNS RAISED THROUGH NATIONAL CONSULTATION WITH FORMER CHILD MIGRANTS

Many former child migrants expressed strong reservations that the Royal Commission, and any redress scheme established as a result, focus only on those who identify as having been sexually abused. Former child migrants rarely define themselves so narrowly: most of us were deported without parental knowledge or consent, robbed of our identities, denied our personal and family records, physically and emotionally abused, deprived of an education and exploited through unpaid and often unsafe labour. In addition, many of us were also sexually assaulted.

We appreciate the Royal Commission's brief is extensive - even limited to institutional sexual assault it will take years to complete the full Inquiry. But to former child migrants, the separation of one serious aspect of our institutional pain and suffering without addressing related criminal assaults, deprivation of a basic education and child labour is problematic and divisive – particularly as these forms of abuse were against the law then as they are now.

8. CONCLUSION

The International Association places on record its appreciation to the Royal Commission for their inclusive, consultative approach to these complicated, long overdue matters. It gives a voice to all those former Child Migrants who were silenced for so long – until the late 1980's when Margaret Humphreys and the Child Migrants Trust came along and gave us hope of recovery.

The policy debate should go way beyond basic redress. Civil Litigation, while potentially providing an improved level of redress, has many hurdles. For example, Fairbridge NSW litigation remains unresolved after five years. Unless there are radical changes to the system, given the ages of former Child Migrants, it will seem an unrealistic option.

We are concerned to ensure lessons are learnt. The legacy of child migration lives within the individuals and families it has so deeply affected. It shines a light on many of the institutions involved in child migration and, for all too many of these institutions, a horrendous child abuse history. We are the living memory of a time not so long ago when powerful institutions – churches and charities, in particular – were unaccountable and abused their position of trust. They committed crimes against the most vulnerable – other people's children, other countries' children – with impunity. For many former Child Migrants, it with no-one to turn to, it was a childhood of captivity.

The concept of choice has considerable interest to those of us who were given no choices. It appears on the surface to be respectful, taking into account individual needs and preferences. However, this gives choices to those organisations who caused the very problem in the first place. It is high time we stopped giving these institutions any choice.

A crime against a child is still a crime, whether it occurred yesterday or 50 years ago. Governments must, and should, take the lead in these matters. Otherwise, unhelpful litigation will waste financial resources which could be better used in providing redress and reparation. There are other ways also to bring about a measure of justice, and that includes the way Governments respond to organisations which betray the community. Such criminal offences are abhorrent. Reconciliation is within the gift of those whose lives have been forever changed.

1st International Congress on Child Migration 27-31st October 2002, New Orleans

CONGRESS RESOLUTIONS

The 1st International Congress on Child Migration brought together international experts in the fields of policy, social work, psychology, psychiatry, law, politics, human rights and history and convened a Special Session of the United Nations on Child Trafficking. Government representatives and Former Child Migrants were also represented.

- 1. CONGRESS calls upon the United Nations and all Governments to recognize that the results from trafficking or forced migration can lead to a lifetime of adult problems with severe social and economic costs; asks those Governments to fund the research necessary to quantify the scale of children and adults affected; and the likely social and economic costs; and then to combine to develop effective and practical policies to address those problems.*
- 2. To assist former Child Migrants to establish their identity, Congress resolves all responsible Governments and agencies make available forthwith all their records to former Child Migrants and their families.*
- 3. Congress calls on Governments to ensure that Article 8.1 and 8.2 of the Convention of the Rights of the Child are complied with, as follows:*
 - 3.1 States Parties undertake to respect the right of the child to preserve his or her identity including nationality, name and family relations as recognized by law without unlawful interference.*
 - 3.2 Where a child is illegally deprived of some or all of the elements of his or her identity States Parties shall provide appropriate assistance and protection with a view to re-establishing speedily his or her identity.*

Congress further recommends that all governments give domestic effect to the United Nations Convention on Children's Rights.

CONGRESS RESOLUTIONS (Continued)

4. *Congress recognizes that in some cases there may be good reason why people may wish to engage in inter-country adoptions: believes there should be strong regulations in such cases which ensure that proper consents have been given by birth parent(s), that the prospective adopters are suitable to adopt and that profit has not been made; believes however that much inter-country adoption arises from poverty and lack of support for family structures and calls upon all Governments to develop and enforce policies which underpin the family structures and redirect resources to enable inter-country adoption to reduce.*
5. *Congress strongly opposes any form of child trafficking and calls upon the United Nations to take the strongest measures to eradicate this form of child abuse.*
6. *Congress agrees that an international team of experts in the area of historical abuse be formed by the Child Migrants Trust to inform, advise and monitor Governments on these matters and ensure ethical and appropriate measures are implemented.*
7. *Congress notes that the Child Migrants Trust has unique and long-term experience in rectifying damage in adult survivors of childhood abuse and calls on the United Nations and responsible Governments to utilize the expertise of the Child Migrants Trust to assist in the development of appropriate tools for people and organizations addressing the consequences of child trafficking.*
8. *Congress calls on all responsible Governments to ensure that all former Child Migrants have free access to justice.*
9. *Congress calls upon the Child Migrants Trust to convene a further conference addressing the issues of child migration and child trafficking within two years and calls upon all responsible Governments to provide necessary resources.*
10. *Congress calls on the Governments of the United Kingdom, Australia, Canada, Malta, New Zealand and Zimbabwe and on the United Nations to ensure the Child Migrants Trust has sufficient and long-term funding to continue and to expand its vital work.*
11. *Congress calls for the next International Child Migrants Day (28th October) to be sponsored by the United Nations. This global event, inaugurated at this Congress, aims to raise awareness for the issues of child migration and child trafficking, past and present.*

