

## **Unfinished Business : The Forgotten Australians**

While most Australians welcomed the Prime Minister, Kevin Rudd's apology to the Stolen Generations in 2008, it took a further 18 months for another group of people, who also suffered from similar injudicious and harmful government policies, to receive a formal apology. On 16 November 2009 Kevin Rudd apologised to the Forgotten Australians for the treatment they received whilst in state care. The 'Forgotten Australians' are those individuals who, from the 1930s to the 1980s, were institutionalised in orphanages and children's homes run by the state, churches and charities. Many of these children were not orphaned at all; some were migrants from overseas sent to Australia for a 'better life'. While in institutional care many of the 500,000 children were physically, sexually and emotionally abused, resulting in a group who have continued to suffer from their treatment into adulthood.

While the harm suffered by these children has now belatedly been recognised, this article challenges the policy discourse about the institutionalisation of children and questions the 'regimes of truth' that applied during this period. Additionally it critiques *The Senate Community Affairs Committee Report* on the Forgotten Australians published in 2004, which has informed the apology. I discuss whether its recommendations will mitigate the injustices that occurred to the individuals in state care during this time. Crucially it is unclear whether the other recommendations will be fully implemented, or even addressed at all. In examining the issues I draw on Foucault's critique of regimes of truth.

I am not a Forgotten Australian, nor am I related to anyone who is. My speaking position stems from my inclusion in a reference group called 'Who am I?' The Who Am I? Project is funded by the Australian Research Council and investigates the role

played by archiving and recordkeeping practices in the construction of identity for people who experienced out of home care as children. The project is conducted by the University of Melbourne and the Australian Catholic University, in partnership with 15 organisations, and in consultation with consumer support and advocacy groups (Pathways 2009).

### **The Senate Report 2004**

In March 2003, on the motion of Senator Andrew Murray, terms of reference to undertake an inquiry into people who had experienced institutional or out-of-home care as children, were referred to the Senate Community Affairs References Committee. The inquiry was advertised in the print and electronic media inviting submissions from Commonwealth and State Government departments, interested organisations and individuals (Senate Community Affairs References Committee 2004). The Committee received 440 public submissions and 174 confidential submissions. It heard evidence in all state capitals and held four in camera sessions and 'generated the largest volume of highly personal, emotive and significant evidence of any Senate inquiry' (Senate Community Affairs References Committee 2004: 4).

In 2004 a report into the findings of the Committee was published. The report is a 438 page document encompassing 39 recommendations advocating enactment by governments and institutions charged with caring for children. Because of its length, it is not possible to go into detail about every recommendation made, or the Committee's view about every aspect presented during the inquiry. However the gist of the Executive Summary condemns the practices that occurred during this era,

with the conclusion being reached that 'there has been a wide scale unsafe, improper and unlawful care of children, a failure of duty of care, and serious and repeated breaches of statutory obligations' (Senate Community Affairs References Committee 2004: xvi). The concluding sentence in the Executive Summary encapsulates the reasons why the report is so important, specifically, 'this report is not just concerned with the past, it is very much about the present and it informs the future of our nation' (Senate Community Affairs References Committee 2004: xvii). In critiquing the report it will be necessary to return to the past, to examine the discourse taking place at the time, not for the reasons why these events occurred, but by taking the Foucauldian approach, and looking at how they occurred.

### **Orphans of the Living**

In the final chapter of his book *An Orphan's Escape*, author Frank Golding (2005: 235), himself a member of the Forgotten Australians, asks the question 'what if...?' What if indeed? What if he and his two brothers had not been taken from their parents and placed in an orphan's asylum, before Frank had reached three years of age? What if his parents had been able to have their children 'released' from state care earlier, as they had tried to do on several occasions, only to be opposed by the system? Frank Golding and his brothers spent twelve years of their lives in the Ballarat Orphanage, their childhoods dominated by the rules, regulations, discipline and maltreatment of a government institution charged with the responsibility of caring for children who were deemed 'orphans' by the state. The word 'orphan' in the case of the Golding brothers was applied erroneously as their parents were very much alive, but were deemed by the state to be neglecting their children. The term

'Orphans of the Living' became the title used by child welfare workers to describe institutionalised children and is just one example of the language surrounding the discourse of the times (Golding 2005: 247).

### **Subjugated knowledges of the children**

In order to challenge the discourses that percolate throughout the stories of the Forgotten Australians it is helpful to examine the effect of 'subjugated knowledges' and how they work in establishing 'regimes of truth'.

As part of his 'Two Lectures' addresses, Foucault discussed his preference for looking to the 'local character of criticism' to understand how discourses have shaped our knowledge. By this he meant that our own study of, or witness to, historical knowledges has been undiscovered or 'disguised within the body of functionalist and systematising theory'. He also referred to disqualified knowledges as those which are imperfect or inadequate and unable to illuminate their understanding, being naive and located 'low down... beneath the required level of cognition or scientificity' (Foucault 1980: 82).

These two knowledges, the erudite and buried, disqualified knowledge, Foucault refers to as 'subjugated knowledges'. (1976: 81). The insurrection, or outbreak, of these knowledges provides an opening for critical thought leading to more enlightened, informed discourse. Scholars like Adrian Howe (2005) in her book *Lindy Chamberlain Revisited*, drew on Foucault's work on subjugated knowledges to examine the Lindy Chamberlain case of 1980 where Chamberlain was accused of murdering her baby daughter, Azaria. Howe's analysis of the case, which is based on

letters in the Chamberlain archive, penetrates assumptions made by the media and others, about Chamberlain's wrongful conviction of the crime. It is the reappearance of low ranking disqualified local knowledges uniting with buried, erudite knowledges that enables Foucauldians like Howe to consolidate these knowledges to inform their work.

Just as Foucauldian local criticism has been used by scholars to critique, it is profoundly important to the discourse surrounding the institutionalisation of children in analysing how these events occurred. This article is yet another insurrection focussing on one of the most subjugated groups in Australia.

### **Regimes of Truth**

In examining the circumstances that prevailed during the years when families were separated and children institutionalised, three regimes of truth existed. The first, and probably the most unequivocal, is that the state is responsible for the care of children. As with the Stolen Generations where children were forcibly removed from their families for their 'own good', providing 'opportunities they would not have otherwise had', (Human Rights and Equal Opportunity Commission 1997), so were the children from families who were struggling to feed, clothe and shelter them. In the latter part of the 19<sup>th</sup> century many organisations were established to 'rescue' children from the influence of their 'bad' parents and the impact of poverty and neglect. It was deemed vital that children should have a 'sound moral upbringing'. In Victoria the *Children's Welfare Act 1924* 'charged' children in court with being neglected and committed them to care in institutions or in foster homes (Department of Human Services 2009).

From 1880 to 1985 there were few changes in attitude as to why children who came from homes unable to care for them should be placed in state care. The discourses that surrounded the institutionalisation of children for a century are an example of one of the regimes of truth that existed, one that governments and agencies identified as reality. According to this regime the state, private welfare organisations and church groups were responsible for 'saving' these children from corrupt influences. The language of the day, 'rescue', 'caring for', 'saving', 'respectability', constitutes a regime of truth that informs the rationale for constructing these 'truths'. The state's assertion that it is responsible for intervening when children are deemed to be 'at risk' is a truth that has remained constant. Still today current child protection strategies, including the Northern Territory Intervention developed to protect women and children from abuse, emphasise the obligation held by governments to ensure that the health and wellbeing of children are safeguarded. That is not in question, it is *how* (my emphasis) this should be managed that is the challenge.

This regime of truth implies that governments were doing the only thing that could be done to 'save' these children from the harm that could ensue by living with their families. On the other hand this type of language represents the 'discursive manoeuvres' employed by governments, erasing governmental responsibility for actions that had devastating effects on children (Howe 2008: 30). Who wouldn't want children to be cared for, saved from harm, and educated? Weren't these institutions and governments doing just that? The answer is yes, and no. These discursive manoeuvres may 'induce effects of truth' whereby truth has been

distorted. (Howe 2008: 29). Ostensibly children living in these environments were being fed, clothed and educated, to an extent. However they were also being abused and deprived of their families.

The second regime of truth comes from the perspective of the institutionalised children who were forcibly removed from their families. Their 'truth' is quite different from that of the state. Their reality was that their 'family' was the orphanage staff and the other children; their family of origin no longer existed as family. In Golding's (2005) case his family had been replaced by a new, less caring one. When referring to the orphanage staff in his 'home' in Ballarat, Frank Golding recounted that 'the staff were untrained and knew little about raising children' (2005:18) He recalled that they were not affectionate in any way, they were just there to do a job. Questioning the reasons why he and his brothers were removed he wondered, 'what could be so wrong with our parents that it was better to be brought up by such uncaring people' (2005: 19). In 1930s Victoria many families like the Goldings were struggling to survive, despite the Harvester Judgement of 1907 establishing a needs basis for determination of wages to satisfy 'the normal needs of the average employee regarded as a human being living in a civilised community' (Bessant, J., Watts, R., Dalton, T. & Smyth, P., 2005: 89). Many people had fallen through the modest safety net of social rights especially those who could not work for a wage.

The years following the Great Depression and the beginning of World War 2 were difficult times for many families, as many wage earners had trouble finding work. These years 'gave birth to many new "orphans"' (Golding 2005: 47). Some desperate

parents gave their children to the Child Welfare Department while others had their children forcibly removed from them (Golding 2005: 47). More than half of the children admitted to institutions were neglected as determined by the state, or had the misfortune to be born out of wedlock at a time when welfare was doled out in a punitive manner (Tierney in Golding 2005). Neglected children were charged at court as if they had broken the law, as Golding (2005: 236) remarked, 'child protection fused with child detention'. The Golding brothers were institutionalised in 1940 several months after the outbreak of World War 2. Their family was one of the many that fell through one of the 'remarkably large holes in the welfare safety-net', as described by Castles (1985: 86). Their value as citizens was not important, it was the male breadwinner's standing as a wage earner, or not, that was the criterion for welfare. Social security for citizens was not the consideration at the time, but rather wage security for workers, heralding the beginning of working class strategy setting the scene for early modern capitalism (Castles 1985: 87).

The third regime of truth describes children constructed as a commodity, a form of cheap labour. Foucault refers to 'an economic functionality ... relations of production and a class domination' (1980: 88); while Golding's account of the view of 'orphaned children' at the time was that 'children in institutions are educationally retarded at the point of entry', therefore education was not a priority (Tierney in Golding 2005: 38). Golding reflects that 'once trained in obedience, the older inmates became cheap labour' (2005: 38). What better way to utilise all those young bodies than to put them to work?

Foucault argued in his pivotal work on 'docile bodies', that individuals are constantly under surveillance in subtle ways, gradually leading to acceptance. Such bodies, he argued, are 'subjected, used, transformed and improved', in short disciplined (1975: 136). Children living in institutions had little free time and no privacy; furthermore they were constituted as having no intrinsic value other than as labourers. For example, the children were referred to as 'little guttersnipes' by one moral crusading teacher (Golding 2005: 38). This language constituted the discourse that existed about how children in care were seen and is an example of the power of language in discourse referred to by Lees, (1986: 166), where the terminology employed degrades the subjects.

### **Power/Knowledge**

According to Foucault, power produces knowledge and power and knowledge are inextricably entwined. He asserted that the relationship between power and knowledge is 'essential because the exercise of power creates knowledge and...knowledge constantly induces the effects of power' (Foucault in Howe 2008: 89-90). Foucault's approach linked discourse and power, he argued that power was exercised through institutions. The orphanage housing the Golding children is a classic case in point of such discursive production and control. Concentrating on the discursive area that 'punished' families like the Goldings for being poor, it uncovers regimes of power and knowledge that operated in a society that institutionalised children as orphans (Howe 2008: 27). 'Power' according to Foucault and Gramsci, the Marxist theorist, must be understood as a 'multiplicity of force relations', it is

not only 'imposed from above but dependant on consent from below' (Foucault in Howe 2008: 93).

How did the events of those years happen to the Forgotten Australians? Employing Foucault's theories of power/knowledge it is apparent that as the power sat with the state and not with the individual, the state exerted its power over individuals in such a way that they had no alternative but to comply. The ability of families like the Goldings to speak up and be heard about their situation was non-existent. The poor had no power and therefore no voice, making opposition to state policy a pointless exercise. Moreover, according to Foucault, power circulates and functions like a chain (1976: 98). He asserted that individuals flow between undergoing and exercising power; that they are not only its target but also its form of conveyance; they are the vehicles which enable it to exist. Foucault was not interested in society as a whole, he sought out local problems such as incarceration of prisoners and the mentally ill and the 'marginalisation of delinquents and criminals' (Gandal 1986: 124). Extrapolating this premise to children in care, they were not unlike either of these two groups

Life in the orphans' asylum for the Goldings was regimented and regulated with strict timetables to adhere to. Foucault referred to the 'three great methods' of control by timetabling; 'establish rhythms, impose particular occupations [and] regulate the cycles of repetition' (1975: 149). Having little choice but to participate in these rituals, most children did the best they could under the circumstances, some even excelled at school. Those who had little ability for study often resorted to theft or bullying. This was their method of control and adds weight to Foucault's

assertion that power circulates between the oppressor and the oppressed. Children were regularly abused emotionally and physically and sometimes sexually, either by the staff or each other. Some children were so starved of affection they did whatever was necessary for attention, even if that involved providing sexual favours to the staff, with many of the exploited children becoming exploiters themselves (Golding 2005: 22).

Foucault asserted that it was no accident that institutions housing large numbers of people were built to discipline them, asking, 'is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons?' (1975: 228). We can easily understand that children in care were treated as prisoners by those in authority.

### **Something must be done!**

Before the Prime Minister's apology none of the Senate Report's recommendations had come to fruition on a Federal level. While some states addressed some of the issues, there has been no consistency across states. In September 2008 The Senate called for a review of the Report and opened an inquiry into the recommendations of the 2004 Report. One support group, Care Leavers of Australia Network (CLAN) applauded the Senate committee for initiating the review, calling on the Federal Government to implement key recommendations of Forgotten Australians (CLAN 2008).

The key recommendations called for by CLAN include:

an apology for the hurt, distress and abuse, and the harm caused...provision of dedicated, cross-state, counselling and support services [and] a redress scheme in all states.

CLAN 2008

On 25 June 2009, the Senate Community Affairs References Committee handed down their review calling for urgent implementation of the recommendations. Recommendation One of the 2004 Report endorses a formal statement of behalf on the nation for:

...the hurt and distress suffered by many children in institutional care, particularly the children who were victims of abuse and assault; and apologising for the harm caused to these children.

Senate Community Affairs References Committee 2004: xix

Leonie Sheedy, a co-founder of CLAN and a care-leaver herself, has for decades been raising awareness about her own, and others, childhoods in care, and states that the care-leavers feel 'unacknowledged and even invisible'. Since the apology to the Stolen Generations she had called on the Prime Minister repeatedly for an apology to the Forgotten Australians arguing that there is still 'unfinished business' to take care of (CLAN 2008).

Why did it take the government so long to apologise for what happened to the Forgotten Australians when the Senate Inquiry took place five years prior? The Federal Government's response to Recommendation One, which advocated a formal apology, elicited this comment:

The Australian Government has great sympathy for those children who suffered hurt and distress in institutional care. While it would not be appropriate for the Australian Government to issue an apology for a matter for which it does not have responsibility, the Government expresses its sincere

regret that these children were placed in situations where they did not receive the care they deserved.

Senate Community Affairs References Committee 2009: 16

This repudiation of obligation by the Commonwealth distorts the role played by Federal Governments during the time children were removed from their families and is yet another example of repeatedly occurring discursive manoeuvres

### **Current responsibilities**

Keevers, Treleaven and Sykes (2008: 464) refer to the 'corporate regimes of truth' that exist as 'managerial discourse', which they describe as being a focus on management, not policies; with agencies working together on a 'user-pays basis'. So it seems, does the Federal Government. In its response to the Senate Report the Federal Government called for institutions and community organisations to acknowledge their responsibilities and urged a collaborative approach between governments and agencies, thus diluting the discourse about Commonwealth Government responsibility to the Forgotten Australians (Senate Community Affairs References Committee 2009: 4).

Keevers et al. (2008: 460) discuss the concept of 'social policy space' which is being used to reconstruct the work of community organisations where the discourses taking place advantage some individuals and marginalise others. The power of these discourses helps constitute and shape social reality (Fairclough in Keevers, Treleaven and Sykes 2008). Furthermore Keevers et al. (2008: 461) assert that transforming the work of community organisations requires participation and self-regulation by the organisations and their employees, executed by the workings of 'governmentality'.

While Marston and McDonald (2006: 2) assert that recently the state's position within the formation of social policy has been questioned, with power and authority being shared among organisations, professionals, schools and families. This is evident with the Commonwealth publicly reinforcing their view that the solution to recompense the Forgotten Australians does not lie with them, but belongs to an amalgamation of state and territory governments and private industry.

In their reference to the partnerships of state and private organisations Keevers et al. (2008: 466) assert that where social policy is dominated by neo-liberalism and managerialism, 'network governance' is emerging, which conforms to ' "the steering not rowing" model' preferred by current governments (Edwards in Keevers et al. 2008: 466). Even since the apology the Commonwealth Government is steering the implementation of the recommendations away from themselves and is rowing it straight to the states and private organisations to manage. While acknowledging that 'duty of care was lacking in several fundamental areas in relation to care of children in institutional care' the Government asserts that 'the Commonwealth was not directly involved in the administration of these institutions'. The Federal Government calls on the states and territories and the churches and agencies to respond positively to the recommendations contained in the Report (Senate Community Affairs Reference Committee 2005: 57).

The 'positive response' called for by the Federal Government, includes the states and territories taking the responsibility for addressing the majority of the recommendations made, including the remaining two referred to by CLAN – cross-state counselling and support services and financial redress. Nowhere in the

Government's response does it discuss providing financial assistance to the states to subsidise any of the conclusions contained in the recommendations. Nor does it offer any other practical solutions to assist with the establishment of any schemes or services. It is abrogating any responsibility for what occurred to care leavers by insisting that it has no legislative obligation to make amends. This sounds much like the Howard Government's response to calls for an apology to the Stolen Generations.

This shift away from taking a national approach to all forms of redress by maintaining a lack of culpability while coercing the states, churches and agencies to 'do something,' is another discursive manoeuvre used by the Federal Government to erase responsibility on their part. Furthermore the Commonwealth's insistence that the onus is on the states and territories to make financial compensation to care-leavers, means that care-leavers in each state and territory have different legal systems to confront. Some states, including Victoria, rather than having a compensation fund available, prefer individual negotiations to settle cases, which can incur long waiting periods before compensation is paid (Dobbin 2009: 13). It will be interesting to observe whether the Commonwealth will change any of its views since the apology.

### **Looking to the Future : Child Protection and Human Rights**

Commonwealth governments, of both persuasions, do not see the big picture where child protection issues are concerned. Child protection matters are state responsibilities, but the aftermath of bad decision making, abuse and neglect by

state child protection agencies become Federal responsibilities, even if only financially. When individuals make applications for Commonwealth disability and unemployment pensions after years of mistreatment in state care, the consequences are shared by all Australians and all governments.

Foucault's work may not contain solutions, but once again is helpful in thinking about what is possible. It looks to characterize and identify problems, with discourses and acts becoming deliberately problematic. The effect this produced was intentional, he wanted individuals to explore and open up ideas for action, to set up new strategies and look to new directions (Gandal 1986: 123). Adopting this approach to the analysis issues surrounding care leavers, Foucault's concepts can be borrowed to begin new discourses to find possible solutions for understanding the plight of the Forgotten Australians. Discourses that challenge the view that shifting blame from one entity to another is not the way to approach assisting children in care.

The Senate Report 2004 and the literature about the transition to adulthood by children in care, refer to the difficulty faced by these children in adapting to the outside world and becoming independent citizens (Courtney 2009: 18). Child welfare policy in Australia focuses on assisting young people until eighteen years of age at which time they are seen to be independent. There are many long term impacts for adults who grew up in state care, not the least being poor health, low self-esteem, problems with maintaining relationships, depression, substance abuse and suicide (Senate Community Affairs Reference Committee 2004).

Since the publication of the Senate Report 2004, there have been calls for closer examination of child protection practice to ensure that similar experiences do not eventuate for children in state care, now or in the future. However the 'well-being' of children is not considered to be a priority for children in state care, the major consideration for their welfare is to feed, clothe and house them. In his paper presented at the Association of Children's Welfare Agencies conference in 2008, Mark Courtney (2009) asserted that historically child welfare services avoided contributing to the 'well-being' of children in policy discourse, because there is a reluctance by child welfare systems to take on the responsibility of well-being issues, believing it a matter for public institutions. He argues that broadening child welfare policy to include child well-being as a policy goal would improve outcomes for child safety and permanency, and questions why this is not taken into consideration when planning for children in care. Once again this regime of truth shifts the responsibility from state to agency and back again, another example of the discursive manoeuvre.

While the Senate Report makes recommendations to the Commonwealth Government for reparations to the Forgotten Australians, there is no Federal legislation or charter covering the rights of individuals that could be invoked to address the needs of children in care, or care-leavers. The *Victorian Charter of Human Rights and Responsibilities Act 2006* protects and promotes limited civil and political rights for Victorians, but does not cover the issues faced by the Forgotten Australians. Each state and territory has its own charter to protect the rights of children in care, but they do not apply retrospectively. In 2007 Victoria launched its

*Charter for Children in Out-of-Home Care* that protects current and future children in care, but again this only applies in Victoria.

Gray and Bailie (2006) argue that a human rights discourse should be used as a framework in arguing for better health outcomes for indigenous Australians. Extrapolating this view to the Forgotten Australians as another marginalised group, it can be argued that a human rights discourse should be paramount when the community is considering action to mitigate past wrongs. Limiting the task to state and territory governments to manage does not ensure social equity and will result in further delays to the implementation of the recommendations.

### **Where to Now?**

Experiences of children in care, such as those in Frank Golding's book are not unusual, unfortunately they are the norm for many Forgotten Australians. It has only been in the past few years that many of these issues have been publicly aired, particularly by care-leavers themselves. Many of these individuals hid their past lives from family and friends for decades because they were ashamed and unable to talk about them. Recently there has been considerable publicity about the Forgotten Australians with many articles appearing in the print and electronic media, and new books being published recently disclosing more violations against children in care.

Until the Commonwealth Government agrees to participate in a new discourse into policy making, and accepts responsibility for groups who suffer social inequity detrimental to their health, regardless of perceived formal obligation, very little will change for groups like the Forgotten Australians. Many of the events experienced by

children in care are almost impossible to fathom when reading about their lives. It is difficult for those of us who grew up in conventional families to understand how these children could be treated in such a way and how successive governments ignored their plight. Once the situation had been discovered, immediate action should have been taken by all governments, to remedy as much as possible, the repercussions being felt by this group.

My position as an advocate for the Forgotten Australians comes from my role as a citizen of Australia and a student interested in policy and its effects on the people it governs. It is from this position that I dispute the adequacy of current policies to address the needs of care-leavers. It is my view that it is time for a new discourse to begin about how to best alleviate the anguish still being felt by this group. Furthermore, the discourse must embrace the current needs of children in care so that in the future their 'truth' in no way resembles that of the Forgotten Australians. Golding's (2005) 'what if?' questions must not be asked by any more children in care, they deserve to live and understand their own 'truth.'

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