



Adoptee Rights
Australia

**Adoptee Rights Australia (ARA) Inc.
Submission to the Community Support
and Services Committee**

**Child Protection and Other Legislation
Amendment Bill 2020**

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ARA Inc.

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This submission was prepared by Sharyn White for ARA with approval of the ARA Committee

Adoptee Rights Australia (ARA) Inc. thanks the Community Support and Services Committee ('the Committee') for the opportunity to make a submission to their inquiry into the Child Protection and Other Legislation Amendment Bill 2020.

Introduction

Adoptee Rights Australia (ARA) Inc. is the National Advocacy Association for Adopted People. ARA advocates for the human rights and wellbeing of adopted persons to be restored, protected and promoted, while seeking to raise awareness of and support for issues around the lived experience of adoption in Australia.

This submission contains additional comments to our submission to the Legal Affairs and Community Safety Committee ('the previous Committee') on the 3rd August 2020 regarding the same Bill and responds to the findings from that inquiry.

1. We urge the Committee to look beyond the report produced by the Legal Affairs and Community Safety Committee in August 2020.
2. While the overwhelming majority of stakeholders had significant concerns and did not support the Bill, this was not reflected in the report of the previous Committee and their subsequent recommendation that the Bill should be passed.
3. We consider that report displayed deeply concerning bias and a reckless indifference to the information provided by the stakeholders via submissions and in the public hearings. ARA considers that outcome to be related to the general influence of powerful lobby groups aligned with the Murdoch Press, (ARA has recently provided a submission to the Federal Media and Diversity Inquiry on this issue).

Research

4. The previous Committee's report relied heavily on references to research by groups which promote adoption and focus on studies of young children. But best interests principles applied to children also include the requirement that their interests in later life be protected, so these studies only present a small part of the picture.

An analogy of the importance of placing early snapshots in the context of a whole of life, long-term perspective in research can be seen, for example, in a comparison of studies of serious effects and diseases two years after commencing smoking, compared with studies on the outcomes of its long-term effects over decades.

5. The report claims that "[a]cademic and research literature seems to support adoption as a means of providing permanency to children where reunification is not deemed to be in the best interests of the child," (Legal Affairs and Community Safety Committee, 2020). Many stakeholders, including ARA, referred to known negative

consequences and the need for research on the outcomes of adoption over the lifespan, and also supplied independent and peer reviewed references with findings indicating that the use of adoption *is not* supported by research – all of which were ignored by the previous Committee.

Human Rights

6. According to the Human Rights Commission any limitation on rights must be “rationally connected to the achievement of that purpose” and “insufficient evidence has been presented to demonstrate why these amendments are needed to achieve their stated purpose” in the Bill (Submission 33).
7. Yet pages 83 to 93 of the previous Committee’s report appear to ignore the assessment of the Human Rights Commission and contain arguments that the limitations on the Human Rights Act, 2019 *can* be justified.
8. ARA asserts that these arguments add no further evidence or rational connection, and we suggest it would be relevant to the current Committee’s fair and objective assessment process for these claims in the previous Committee’s report to be reviewed by the Human Rights Commission due to the independence and expertise of that body.

Best Interests and (again) Research

9. Wherever the previous Committee was not able to find a reason to justify the limitations to rights, they have used the principle of ‘best interests’ of the individual child, as assessed by individual case management. The UNCRC General Comment No. 14 (2013) recommends best interests as a guiding principle in this situation, while explicitly and repeatedly emphasising the necessity and importance of rights to the child’s best interests. It also advises that the concept of the child’s best interests has been abused by Governments and other State authorities (p.9), and recommends formal processes with strict procedural safeguards to prevent the abuse of wide discretionary powers based on individual value judgements. One mechanism to prevent this is the Child Rights Impact Assessment (CRIA).

According to UNCRC General Comment No. 14:

The child-rights impact assessment (CRIA) can predict the impact of any proposed policy, legislation, regulation, budget or other administrative decision which affect children and the enjoyment of their rights and should complement ongoing monitoring and evaluation of the impact of measures on children’s rights (p. 20, 2013).

General Comment No. 14 further specifies:

*The impact assessment itself could be based on input from children, civil society and experts, as well as from relevant Government departments, **academic research** and experiences documented in the country or elsewhere. The analysis should result in recommendations for amendments, alternatives and improvements and be made publicly available (pp. 20/21, 2013).*

Crucially – and in line with common sense - academic research is regarded as integral to an assessment of best interests and rights guidelines like the CRIA.

10. ARA respectfully requests that this Committee recognises the existence of research which indicates there are significant long-term negative whole of life outcomes in adoption and the glaring need for further research into adoption outcomes over the lifespan to provide an evidence base to inform decisions around adoption.

Conclusion

11. The submissions from the growing movement of stakeholders speaking about the damage and harm of adoption, and their concerns regarding this Bill are on public record. We hope that these will be taken into account by this Committee and you will make your decision based on your duty of care to preserve the human rights and welfare of future generations. Please stop the passage of this Bill here.

Further Notes

*ARA also notes that the added human rights limitations of Sections 17, 21 and 22 of the Human Rights Act, 2019 as well as of Article 25 of the United Nations Convention on the Rights of the Child (UNCRC) and the problems with consistency with legislative principles in the Bill that our submission identified were ignored in discussions by the previous Committee.

These additions were informed by perspectives from the lived experience of adopted people and the many years of experience our members have in examination of the Adoption Acts in various Australian jurisdictions.

Ignoring these calls for the recognition of the limitations of rights by those with lived experience is yet another reason to stop creating more members of a group that endures this level of marginalisation and silencing.

*ARA representatives are available to provide more information at a Public Hearing or in any other form if required.