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Legal Affairs and Community Safety Committee Parliament House
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Re: Child Protection and Other Legislation Amendment Bill 2020

On 27 November 2018, the Honourable Di Farmer MP addressed the crowd gathered at the commemoration of the Queensland Government's Apology for Forced Adoption Policies and Practices. She referred to the policy changes in New South Wales focused on adoption for children in foster care, stating that this would not occur in Queensland, "Not on my watch!". Yet here we find ourselves with this Bill introduced into Parliament to do just that.

What has changed? Why this Bill? And why now?

It was stated during the 2016 review into the *Adoption Act 2009*, that adoption is generally not considered to be in the best interest of children, as there are issues with the very nature of adoption that deem it unsuitable. I will address these issues below.

Personal identity as a human rights issue

Professor Nahum Mushin, in his speech at the commemoration of the National Apology for Forced Adoptions on 21 March 2018, spoke of the need for law reform in the area of the change of identity for children being adopted ^[1]:

"While large numbers of those experiences represent the very worst aspects of adoption, the issues of consent, ongoing parental involvement and, in particular for adoptees, personal identity should inform our consideration of the possibilities of law reform in this area."

Historically, the change of name and identity was a means to solve the problem of illegitimacy for a child born out of wedlock as these children were subject to legal disabilities. The *Act to remove the legal disabilities of children born out of wedlock* commenced on 1 January 1979 ^[2] giving all children equal status irrespective of whether the father and mother are married to each other.

The *United Nations Convention on the Rights of the Child* Articles 7 and 8 speak to the importance of a name and identity for a child ^[3]. This includes the right to a name from birth and the right to preserve his or her identity.

It is commonplace in society today for members of a family group residing at the same address to have difference surnames. There is no stigma attached to blended families having different surnames.

From the perspective of a child requiring permanency of care, it is illogical that they should be subject to the significant lifelong and intergenerational legal name and identity changes that adoption imposes upon them in order to be provided with a permanent home, when permanency and stability can be achieved through a Permanent Care Order.

Simple/Additive Adoption

The current form of adoption in Australia is Plenary Adoption which results in the adopted person's name and identity being changed, their birth certificate cancelled and an amended birth certificate issued showing the adoptive parents gave birth to the adopted person, and the permanent cutting of legal ties with their mother, father, siblings and extended family.

Simple/Additive Adoption allows the child to retain their name, identity, birth certificate and legal connection to their family, while forming a new legal relationship with the adoptive family. The end result is that the natural family and adoptive family maintain an ongoing legal relationship with the adopted person.

Permanent Care Orders (PCO) provide a stable and secure family arrangement for a child requiring care, legally ending when the child reaches legal adulthood at 18 years old. If it is appropriate and in their best interests for the child to have an ongoing legal relationship with their PCO parents, then Simple/Additive Adoption is the preferred option and I strongly recommend that it be introduced in Queensland. This is backed up by research done by Prof Karleen Gribble and Stacy Blythe of Western Sydney University^[4] and a recommendation for research into Simple Adoption by Hon Michelle Landry MP^[5].

Discharge of Adoption Order for Adopted Adults

This Bill proposes that the Department of Child Safety will make the decision as to whether adoption is the appropriate option for achieving permanency for children in care. This is a decision imposed upon the child at an age where they are unable to give informed consent to the legal name and identity changes and family severance.

Once an adopted person reaches adulthood and gains awareness of the impacts of the loss associated with these changes, many want to return to the identity they were born with and reinstate their legal connection to their family.

The current *Adoption Act 2009* Part 9 Adoption Orders, Division 7 Discharge of Final Adoption Order, 219 Grounds For Discharge^[6] does not allow an adopted adult the right to choose for themselves the name and identity they wish to live with. Despite an Adoption Order being made in the Childrens (District) Court, an application for Discharge is elevated to the Supreme Court. This is seen by many adopted adults as discrimination. I recommend that this legislation be amended to provide adopted adults a no-fault discharge of their adoption through a District Court process.

Support for a Child Post Adoption

Adoption is not a magic pill that provides solutions for all of a child's challenges. Many children in care have highly complex mental and physical health and social support needs which do not end just because they have been adopted. What does end is the support from the Queensland Government Department of Communities. There is no package of social support, mental or physical health care available for adoptive children, and no welfare checks beyond 12 months post adoption. Provision of these complex care needs is at the discretion and financial capacity of the adoptive parents. This is clearly not in the best interest of the child.

Adoptee-aware and competent mental and physical health care and social support services are extremely limited for the current cohort of adopted people. Adoption is not acknowledged as a risk factor by many health and human services professionals, despite its recognition as such in the Australian Institute of Family Studies 2012 report into *Past Adoption Experiences* [7]. The Key Messages contained in this report are:

- acknowledgement, recognition and increased community awareness of and education about past adoption practices and their subsequent effects;
- specialised workforce training and development for health and welfare professionals to appropriately respond to the needs of those affected;
- review of the current search and contact service systems, with a commitment to develop improved service models;
- improved access to information through the joining of state and territory databases, governed by a single statutory body;
- improved access to and assistance with costs for mental, behavioural and physical health services;
- ensuring that lessons from past practices are learned from and translated where appropriate into current child welfare policies, and that adoption-specific services are created or enhanced to respond to the consequences of past practices.

A study by the *University of Minnesota* conducted from 1998 to 2008 showed the odds of a reported suicide attempt were ~4 times greater in adoptees compared with non-adoptees [8].

I recommend that all these areas are addressed and responded to, to meet the needs of the current cohort of adopted people before implementation of this Bill which will increase the number of adopted people requiring lifelong support.

Regulation of Care for a Child Post-Adoption

There are clear Standards of Care necessary by the child's carers under the *Child Protection Act 1999*, Chapter 4 Regulation of care, Part 1 Standards of care, 122 Statement of standards [9].

The child is further protected by a Charter of Rights, Division 1 Chief executive's obligations under child protection orders and care agreements, 74 Charter of rights for a child in care [10].

There are no such protections or requirements of adoptive parents under the *Adoption Act 2009*.

I recommend that this disparity in the standard of care and the rights of the child that is legislated be addressed before the implementation of this Bill.

Adoption is Not Evidence-Based

As an adopted person is seen "as if born to" their adoptive parents, if the adoptive parents die, or the placement were to fail and/or the child come to the attention of Child Safety, their file is no longer active with the Department of Child Safety to alert workers that this child is not living with their biological family.

Adoptive families are subject to all the same issues as any other family. Their circumstances can change greatly from one year to the next including divorce, major illnesses or injuries, addictions, death of one or both adoptive parents, unemployment, financial strain, or domestic and family violence. It is unclear how many adoptive placements fail due to relationship breakdown, neglect or

abuse by adoptive parents as this data has never been collected or reported under the *Adoption Act 2009*.

This information is a requirement under the *Child Protection Act 1999* Division 1, 7 Chief Executive's Functions (1) ^[11]:

- (r) collecting and publishing, or helping to collect and publish, information and statistics about—
 - (i) harm to children; and
 - (ii) the life outcomes of children in care; and
 - (iii) the relationship between the criminal justice system and the child protection system; and

- (s) promoting and conducting research into—
 - (i) the causes and effects of harm to children; and
 - (ii) the life outcomes of children in care; and
 - (iii) the relationship between the criminal justice system and the child protection system;

I recommend that the above be implemented for all adopted persons, that data is collected about a person's adoption status when engaging with all Queensland Government services and an evidence-based, peer-review longitudinal research study be carried out into the outcomes for adopted people across their lifespan. The true needs and support services required by adopted persons cannot be known until this vital research is carried out.

Abuse and Neglect by Adoptive Parents

Until now, adoption has not been seen as a form of out-of-home care and is not considered an institution despite adoption being selected and enacted by the Queensland Government.

Adopted people who were sexually abused by their adoptive parents were rejected from giving evidence to the *Royal Commission into Institutional Responses to Child Sexual Abuse*. They do not have recognition of their suffering, nor qualify for support or redress.

This issue needs to be addressed for all current adopted people who have been neglected and/or abused by their adoptive parents.

I recommend that adoption be formally recognised as a form of out-of-home care to further protect adopted people.

Consent to the Adoption

In the 2012 Apology for Forced Adoption Policies and Practices offered by then Premier Campbell Newman, the Queensland Government committed to ensuring that those policies and practices are not forgotten and are never repeated ^[12].

Will this Committee guarantee that this Bill will not see a return to the corrupt, illegal and immoral practices of the past where informed consent of the child's parents to the adoption was not obtained?

The Dispensation of Consent ^[13] provision in the *Adoption Act 2009* must not be used as a means to increase the number of adoptions. Adoption without the informed consent of the child's parents is nothing short of a return to Forced Adoption.

I thank the Committee to taking the time to read this submission. I welcome the opportunity to speak with any members of the Committee regarding the above.

Yours sincerely

Judy Glover
Adopted Person

- [1] <https://www.jigsawqueensland.com/5th-anniversary-national-apology>
- [2] <https://www.legislation.qld.gov.au/view/pdf/asmade/act-1978-030>
- [3] <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- [4] <https://theconversation.com/adoption-law-should-be-reformed-to-give-children-legal-connections-to-both-of-their-families-heres-why-127521>
- [5] <https://ministers.dss.gov.au/speeches/5326>
- [6] <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-029#pt.9-div.7>
- [7] <https://aifs.gov.au/publications/archived/77>
- [8] <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3784288/>
- [9] <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-010#ch.4-pt.1>
- [10] <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-010#ch.2-pt.6-div.1>
- [11] <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-010#sec.7>
- [12] <https://www.qld.gov.au/community/caring-child/adoption/post-adoption-support-services/apology-past-forced-adoption#:~:text=Print-Apology%20for%20past%20forced%20adoption%20practices,of%20the%20Queensland%20Legislative%20Assembly.>
- [13] <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-029#pt.2-div.6>