

Submission

Australia's Implementation of the UN Convention on the Rights of the Child (CRC).

Dear Commissioner,

Please accept my submission with respect to Australia's progress in implementing the CRC. I am writing this as an individual domestic adoptee. Whilst this submission will reflect my views, I am also an activist. To that end, I liaise with national and international adoptees and accordingly the issues raised in this submission are not isolated to my case. To that end, I am grateful to be afforded a voice via this submission, which is typically denied in the mainstream.

Article 7:1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.

Article 8: 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.

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

Adoption practices, past and present, denies children and adults (such as myself) the right to retain our original birth certificate, name and culture – our identity. Once adopted, we are legally severed from all our biological families and we are issued falsified birth certificates (as if born to our adoptive parents). Accordingly, children (and adult adoptees such as myself) subject to adoption orders, and whose name was registered by their birth parents, are arguably denied their rights under the CRC Article 7.1.

Further, the existing attempts by government (e.g., the review on local adoptions by The House of Representatives Standing Committee on Social Policy and Legal Affairs) is seeking to operationalise a national framework on adoption for children in out-of-home care. Research consistently shows the link between poverty (and other inequalities) and adoption. Accordingly, these inequalities should not be the drivers that separate children from their birth parents. Within



that context, existing state government models, that appear to prioritise adoption over reunification, may shift the emphasis away from supporting children to be reunified and cared for by their parents. I question whether this approach meets the criteria of '**as far as possible**'. A system that prioritises adoption over other care models (e.g., investing funds to appropriately resource the foster care system and alternative long-term guardianship models), is therefore concerning. Accordingly, there are other inclusive care models that safeguard children's rights and safety that are not so punitive, and these must be examined. For example, the My Home program in Queensland, and as trialed by the [Department of Communities](#) states that:

"My Home also enables the department to consider whether the permanent foster carers will be the child's legal guardians under a Long-Term Guardianship Order to the carers. This allows the child to have the security and stability of living permanently with a family, without ongoing intensive involvement from the department. Providing a permanent, stable home life allows children to form trusting and secure attachments to their carers, and feel a sense of belonging with family and community."

This program can be operationalized for children who cannot return home but does not necessitate the legal severance (to family) and enables the child to retain their name and real birth certificate which I therefore argue is better aligned with Article 7 – 8.

Further, adoptees face multiple barriers in terms of discharging their adoption. To that end, there are no national or uniform practices (or funding) to support adoptees to gain back their original identity and birth certificate (via discharge). Consequently, it is reasonable to conclude that existing children adopted from out-of-home care (and adult adoptees –the former children subject to adoption) will encounter similar impediments in terms of re-establishing their identity. I question whether this is consistent with the intent of Article 8.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

I believe that any government reforms, which seeks to prioritize adoption for children in out-of-home care, raises questions under the CRC. For example, I refer to the subheading '[Major changes to the Child Protection System](#)' within the NSW government site. In that context, I respectfully ask that an examination of evidence-based research be undertaken to support the reforms which include: "performance-based contracting to focus on finding children in care a permanent home within **two years**". I also ask the Commissioner to consider that it may take some parents longer than two years to fulfil their obligations to care and protect their child or children. For example, what if vulnerable parents, such as parents who identify as having an intellectual [disability](#), need ongoing support to reunify and parent? I understand that there are many reasons that children enter the child protection system. I have previously worked in child protection and human services. In that light, I am concerned that reforms which potentially move the emphasis from reunification to permanency planning, under the guise of adoption, will create an adoption driven system. Please also refer to the report by the [British Association of Social Workers](#) which speaks to this issue and other human rights issues in the context of adoption.

Finally, a child adopted at a young age is unable to provide informed consent. It is reasonable to assume that some children will seek to return to live (reunify) with their birth family when they get older. However, this then raises the legal issues given that the child will no longer be legally



related to any of their family. This also impacts on inheritance rights. That is, the child is no longer entitled to inherit from their biological family and as aforementioned, [discharge](#) of adoptions by an adoptee is not a simple process. I question whether said reforms are child centered. I respectfully ask the Commissioner to please examine these issues as per the intent of the CRC in the context of child protection, reunification and adoption.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

I ask that the Commissioner please examine the term 'best interest of the child' in the context of the issues raised above and in reference to the findings (and recommendations) of the [National inquiry into the Commonwealths Contribution to Former Forced Adoption Policies and Practices](#).

In addition, Australia is a multi-cultural country and not all cultures operationalise adoption in terms of the formal [legal transfer of parental rights](#). In France, there is a system of 'simple adoptions' which does not sever the family links. This also interests with Article 8.

I also ask that the Commissioner examine whether NGO services that are receiving funding to focus on adoption, are also funded to provide early intervention services to vulnerable families (including their children in care). If this is the case, I ask that the Commissioner consider if this practice is consistent with the overarching principles underpinning the CRC (e.g., Article 10 and 21).

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

I also ask that the Commissioner keep in mind that all adoption is out-of-home care irrespective of how it is operationalised (i.e., whether voluntarily relinquished or through child protection system). However, in general, adoptees have not been afforded the same rights as other children in care which perpetuates our marginalization. For example, and anecdotally, adult adoptees who were placed in the care of abusive adoptive parents, by government and other institutions, have reported that they were unable to give evidence under the terms of reference for the Royal Commission into Institutional Responses to Child Sexual Abuse. Arguably, when an adoptee is placed in out-of-home care, such as adoption, government and any other institution (e.g., funded NGO) should remain accountable. They (government or NGO's acting on behalf of the government) should not be allowed to abrogate responsibility for any adoptee.

Conclusion

Commissioner, I cannot stress enough that the impact of adoption can take decades to fully unpack and understand. I speak to local and international adoptees and this is a recurring theme. The younger me would have supported adoption because that was what was expected of me by society. That was the dominant narrative and my grief was disenfranchised and that remains so today.

I am very worried that that the current climate is sending the wrong message to children and adult adoptees. The savior mentality is doing us all a great disservice. Additionally, young children in foster care may be subject to a narrative that tells them they can only be loved and supported through adoption, as opposed to foster care or indeed family reunification. I know myself, and through my friends who work (or have worked) in the child protection system, that kids primarily want their parents to love them and they want to return home. Supporting children holistically necessitates that we support their right to retain their attachment to their biological family, which in turn cements their sense of belonging (Barra & Nupponen, 2018). Asking (or imposing) a child in care to forfeit their lineage and rights, something that they may not fully understand to they are older, is too big a price to pay in the name of care.

In addition, adoption does not stop children coming into care. Our focus, as a nation, should be towards early intervention and prevention models and the barriers that exist for children to return home safely and to be part of a well-resourced foster care system.

Clearly, adoption is not a panacea and we still need to address adult adoptees who are in this position because of former governments' approach to adoption. I urge the Commissioner to please consider adoptee rights within the context of the CRC and other human rights instruments. I believe there is a moral and ethical imperative that adoption, in Australia, be investigated in the areas discussed above and including but not limited to: legal severance, children's rights in the context of vulnerable families, the process of discharging adoptions, no ongoing welfare checks on adoptees, vetoes, recourse for adoptees who were abused by their adoptive parents, adoptee rehoming and adoption breakdowns in Australia. We must give adult adoptees a voice in Australia. We are the former children who were not protected under CRC (e.g., forced adoption) – our adoptions were operationalized under the guise of our 'best interest'. Yet, we know that adoption does not guarantee a better life, only a different one.

I believe the commonwealth government and state health (and other relevant departments) should be required to institute a national framework for data collection on adoptees who access services such as but NOT limited to: mental health, youth detention or prisons, other statutory services, homeless services and alcohol and other drug facilities. We need to collect and analyze this data to inform a national understanding of adult adoptee outcomes.

I find it inconceivable that there has not been a national inquiry into adoptee outcomes! No reliable data has been kept on our outcomes across the domains (e.g., physical, social or emotional health). Anecdotal data, and international research, indicates that adoptees are over represented in areas of: [attempted suicide](#), [mental health](#), [feelings of loss](#)/disenfranchised grief, [prison](#), [addiction](#), [trauma and identity issues](#). Please note this list of resources is not exhaustive and further research is needed.

Adoption practices in Australia should be interrogated as to whether they are consistent with the CRC and contemporary views on equality and social justice.

Adoptees are a marginalised minority and we are fighting for equality. Adoptee rights are human rights.

Sincerely,

██████████

██████████

Adult Adoptee