Submission by *Adoptee Rights Australia, Inc*, to the ACT Government's discussion paper:

DISPENSING WITH CONSENT

"The ACT Government would like to understand whether the legislation in this area should be changed and if so, how best practice may be achieved."

Adoptee Rights Australia, Inc. the new peak national body established for and by the adoptees of Australia, advise the ACT government of three main areas to help its understanding of why the legislation in this area should *not* be changed, except in regards to providing children with a greater voice in proceedings.

We identity the following 4 areas, elaborated below:

1. Discretionary provisions for judges are already adequate;

2. Clauses that exclude non-indigenous children from considerations of past abusive adoption practices and their own attachments to their identity, family and culture is racist and discriminatory;

3. Indications that the ACT might seek to imitate other jurisdictions (such as the UK) where adoptee abuse and murder occur are extremely offensive and a failure of duty of care;

4. Applying a 20th century adoption system designed to remove and hide illegitimate births to a modern child protection system is highly inappropriate when basic adoptee rights (to not have their birth certificates and names changed without their consent; to not be disinherited by the Order of Adoption; to not be deposited in private homes without ongoing welfare checks as obligated by the UNCRC; to have access to no-fault expense free discahrges, free DNA testing and searches, etc) - have not yet even been catered for.

1. S. 35(1)(e) provides judges with a wide-ranging breadth of discretion to dispense with consent. To make the dispensing of consent even easier, is an obvious attempt to "force the hand" of experienced judges to dispense with consent where otherwise they might be of the opinion that it is not the suitable order to make in that particular case. The only reason we can think of that the ACT government would wish to take power away from experienced judges and force their hands, would be to increase adoption quotas.

2. ARA, Inc. particularly objects to the racist divide in the ACT adoption legislation specified in the paragraph at the top of p.7:

"Most Aboriginal or Torres Strait Islander advocates do not support adoption of Aboriginal or Torres Strait Islander children or young people due to past abuses and because adoption changes a child's legal identity, severing legal connections to the birth family. This means that adoption will not generally be considered for Aboriginal or Torres Strait Islander children and young people in the ACT."

Non-indigenous children also experience "changes to their legal identity and severance of legal connections to the birth family" when they are adopted. They are not less human than first nations children and they have also had a history of forced adoption and removal for which the ACT government has apologised.

Therefore the paragraph should read:

"Most adoptee advocates do not support adoption of Australian children or young people due to past abuses and because adoption changes a child's legal identity, severing legal connections to the birth family. This means that adoption will not generally be considered for Australian children and young people in the ACT."

The fact that current legislation does not recognise these things for ALL Australian children is a reflection of what we have learnt from Australian history and current Australian culture, that it is "white" children that people want as "bricks" to "build the modern family." Pro-adoption advocates, imbued with the clean slate ideology that drove the atrocities producing the Stolen Generations and Forced Adoptions, all come from the either the privileged, the religious, or the celebrity classes of the non-indigenous Australian community. They do not speak for non-indigenous adoptees and do not understand past practices, current legislation and every child's right to retain the truth of their identity and legally acknoswledge as connected to their own kin, even if they cannot live with them.

The ACT government needs to extend its respect for Aboriginal and Torres Straight Islander children's right to identity, etc, to the rest of Australia's children.

3. Comparison with the UK forced adoption system.

The NSW terminology of "Permanency Support Programme" is the most Orwellian name we have ever heard coming out of the NSW government. What good is permanency if it's with strangers, abusers or paedophiles? And we know you can't vet for that as the abuse and murders of adoptees by their adopters, in the US and the UK last year, proves. For example:

http://www.dailymail.co.uk/news/article-5057913/Gay-father-murdered-adopted-daughter-jailed.html

https://timesofindia.indiatimes.com/india/death-of-toddler-adopted-from-india-prompts-calls-to-end-inter-country-adoptions/articleshow/61244989.cms

The continuing abuse and murder of adopted children in the UK makes the comparison with UK law at the end of the paper, as if it should somehow be imitated by the ACT, particularly disturbing. To move toward the UK system of forced adoptions for which they have not yet had a national apology, and from which many families are fleeing the country to escape having their children taken by an over-zealous, classist and racist child-protection system (the laughing stock of the French!) would be a huge step backwards for the ACT

which should, instead, be seeking the advice of experienced adult adoptees such as myself, a PhD and solicitor, and my members who also have a wide variety of professional skills and experience.

It is a fact that professionals in the sector in the UK have been questioning the use of forced adoption for a long time now so why would we consider such a model when its practical application has already proved so devastating and has been noted as such by judges in the higher courts?

After several years of the former Prime Minister David Cameron's push for more adoptions to take place, which is being mirrored in Australia by the push by the Federal Government and powerful celebrity pro-adoption lobbyists and religious organisations (essentially people with vested interests in adoption because of payments to NGOs per adoption placements).

The following research paper screams caution as was written from the coal face of adoption in the UK and the human rights abuses that has resulted from using a "quota system":

https://www.basw.co.uk/media/news/2018/jan/basw-unveils-adoption-enquiry-report-and-key-findings

"Britain is one of two European countries where 'forced adoption' takes place, whereby a child's biological parents are given no say in the decision to give up their offspring. The stated motive for the practice is putting the child's interests first, but opponents insist that social workers often abuse their powers simply to meet targets. Human rights activists have raised concerns about the fairness of the system. They believe child protection services often act on false allegations and operate under vague definitions of child abuse to forcibly remove children from their natural parents."

4. General Observations.

Changing closed adoption to open adoption, as has occurred in Australia since the baby scoop era, does not solve the problems of: permanent legal severance of a child's rights to their family and the severance of their descendant's rights; their disinheritance from their natural families without even recourse to Family Provision from their natural families if they are destitute; the replacement of a maternally biologically accurate birth certificate with a second birth certificate listing parents who most likely did not even know the child when he or she was born; the changing of surname; the extreme difficulty of discharging adoptions for the adoptee despite never consenting to it; and the ABSOLUTE lack of welfare checks in adoptive homes where adopters are now being PAID (at least in NSW) – all these rights violations continue in open adoption.

We hope the ACT government has learnt from the Senate Enquiries into government's role in the forced adoptions of the past.

If the NSW government wants to use adoption for child protection it needs to quickly reform it so it no longer violates Australia's obligations under the *Convention on the Rights of the Child* which provides for, among other things, periodic review of children in alternative care which includes adoption.

We have a significant demographic of abused adoptees –abused by their adopters - which the NSW government knows nothing about because they do not keep any track of adoptees or study our welfare outcomes in any way. Adoption is not evidenced based in this country despite what rich and powerful celebrity pro-adoption lobbyists claim.

It is only a matter of time before adult adoptees will be making claims that a government's duty of care extends to those who place children in abusive adoptive homes. Nor has the excluding of adoptees from the scope of the *Royal Commission into Institutional Responses to Child Sex Abuse* succeeded in stopping adoptees seeking justice served against the negligence of State governments, hospitals and religious institutions that failed in their duty of care.

Replacement birth certificates MUST be done away with immediately: how ridiculous that if an 11 year old child is adopted she is issued with a new birth certificate stating her adopters are her parents since birth registration? Even some carers and adoptive parents find this ludicrous and an insult to the child.

We are fed up with the theft of identity which is adoption: we have ONE birth certificate and an Adoption Order is all that is required to prove name change: just like a marriage certificate.

Adoption does not fix OOHC in any way. So why not concentrate your energies on the most vulnerable of Australia's children and make their experience in OOHC a stable, loving and safe environment for all? Or better still, support families so that fewer children need to be removed?

We will not give up until the Adoption Act is reformed to provide Adoptee equality: one truthful birth certificate; no disinheritance; proper welfare checks, free searches, DNA tests and discharges, etc.

A UK judge as described adoption as the "most draconian interference in family life possible" (*Down Lisburn Health & Social Services Trust v H*). It need not be done at all. We can provide children with family based care without violating their human rights.

Kind regards

Dr. Catherine Lynch, JD

President

Adoptee Rights Australia, Inc.

https://adopteerightsaustralia.org.au