



**Submission by the NSW Committee on Adoption and Permanent Care Inc
to the Legal and Constitution Affairs Legislation Committee**

July 2014

Inquiry into the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014

Submission:

Thank you for the opportunity to comment on the issue of allowing the acquisition of Australian citizenship by a person adopted outside Australia by an Australian citizen in accordance with a bilateral arrangement between Australia and another country.

By way of background, the Committee is a peak body non-profit organisation with membership including government and non-government agencies, support groups and individuals interested in, involved in, or affected by adoption and permanent care or related issues. Our members include the Department of Family and Community Services, plus all three accredited non-government adoption agencies (Anglicare, Barnardos and CatholicCare) and three funded non-government post adoption providers (International Social Service Australia, Post Adoption Resource Centre and Salvation Army Special Search Service).

The Committee acknowledges benefit in removing unnecessary stumbling blocks to assist the adoption process. Furthermore, we appreciate that Australian prospective adoptive parents would like the security of the adoption being finalised overseas enabling the family to travel back to Australia on Australian passports. However, we would like to express concern that finalising adoptions of children in non-Hague countries may present a myriad of complicating issues.

The Committee strongly believes that intercountry adoption should only occur for children as a last resort, only after suitable family placement options are explored and exhausted and foster care or local adoption is not viable. We believe that intercountry adoption needs to take place within the context of protecting the rights of children, as prescribed by the *1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (THC-93). This ensures that suitable adoptions are always in the best interest of a child, with a child focused needs at the forefront of decision making. The THC-93 also establishes a system of control around financial matters to protect against “improper financial gain”.

The Committee is concerned that the amendments to the Bill cited in Section 2a, Section 19b and 19c extend the criteria from “In accordance with the Hague Convention” to include “Or a bilateral arrangement”. Non-Hague Convention countries are not legally bound by the standards and safeguards of THC-93 which take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children. We are aware that in countries whose child protection system has little capacity to monitor individual cases, individuals and criminal organizations will use any means to exploit the loopholes of the system, to make money within

the adoption process. Whilst we appreciate corrupt or unethical practice can still occur in a country that is a signatory to THC-93, the probability of it occurring in a non-Hague country is much higher.

It is for the reasons above that we believe all of Australia's intercountry adoptions should take place between countries who are signatories of THC-93 the Hague Convention or implementers of THC-93, as this provides the minimum standards to ensure the safeguards and ethical practice of intercountry adoptions.

While Australia only has two current intercountry adoption programs with non-Hague countries (i.e. South Korea and Taiwan), the Committee is concerned that the new Bill will encourage Australia to open more intercountry adoption programs with non-Hague countries under new bilateral arrangements, and as mentioned above these 'sending countries' are less regulated therefore the occurrence of illicit activities is more prevalent than in THC-93 "sending countries".

Finally we do not believe that by facilitating citizenship for children adopted from non-Hague countries will in fact expedite the adoption process at all, and therefore wonder what real benefits this Bill will provide for families adopting from non-Hague countries.

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In consultation with Committee's Legislative Review Subcommittee:

Janet Henegan	Vice Chairperson (Manager, Post Adoption Resource Centre)
Damon Martin	Treasurer (Manager, NSW Office, International Social Service Australia)
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