



AUSTRALIAN COALITION FOR EQUALITY

Equality For Australia's Lesbian, Gay, Bisexual, Transgender & Intersex People

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Committee Secretary
Family and Human Services
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Committee members:

INQUIRY INTO ADOPTION OF CHILDREN FROM OVERSEAS

Thank you for the extension to the deadline for submissions into the FHS Inquiry into Adoption of Children from Overseas.

The Australian Coalition for Equality (ACE) is dedicated to achieving equality for lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Australian national law and policy.

Our submission primarily concentrates on the first Term of Reference:

Any inconsistencies between state and territory approval processes for overseas adoptions.

The ability to legislate for adoption has generally been the domain of State and Territory governments. Within all states and territories, adoption laws contain general eligibility and suitability criteria to ensure child placement is in the best interests of the child.

The Committee is referred to multilateral and bilateral agreements between Australia and other nations, specifically the *Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention on Intercountry Adoption)*. This multilateral agreement contains no such mandatory bans on same-sex couples from adopting children. However, article 24 of *The Hague Convention Intercountry Adoptions* does allow a receiving State some rights on the selection of the adoptive parents —

"The recognition of an adoption may be refused in a Contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child."

Given that Western Australia, Tasmania and the ACT now offer adoption equally to heterosexual and non-heterosexual couples, ACE would view that same-sex adoptions are not manifestly against public policy within Australia.

The inconsistencies between States in relation to same-sex overseas adoption implies a public policy based on the fallacious argument that same-sex couples are unfit to parent and unfit to adopt. This assumption of parenting suitability is inconsistent with current research in this field which finds the children of same-sex parents are no different in their health, welfare and development as the children of heterosexual parents.

This stigmatises both non-heterosexual parents and also their children within Australian society. Children deserve the right to fairness and protection within their family and within society irrespective of their parents' sexual orientations or gender identities.

Further, the States which do not allow overseas adoption ignore joint adoption of an overseas child by an Australian close relative and that close relative's same-sex partner when that adoption contributes to family unity.

ACE firmly believes that overseas adoption should occur in the best interests of the child and that same-sex couples can and do provide loving and stable family environments for children who may otherwise languish in institutions abroad.

ACE believes that the discriminatory treatment in some States of same-sex couples and families in relation to overseas adoption is unjust and unwarranted.

Whilst we acknowledge that the countries which have an agreement with Australia do not currently adopt to same-sex couples, ACE recommends strongly that all States of Australia should allow access to overseas adoption for same-sex couples. Given that many countries now allow same-sex adoption and others are in the process of reviewing their requirements, ACE argues that in the future, countries adopting children to Australia may well change their criteria to include same-sex couples.

We also urge the consideration of broad-ranging relationship recognition for the large number of same-sex couples and the increasing prevalence of families led by same-sex couples.

Kind regards

Kelly Pilgrim
Australian Coalition for Equality