

Australian Greens' Dissenting Report

Australian Citizenship Amendment (Intercountry Adoption) Bill 2014

The Australian Greens are very concerned about fast tracking intercountry adoption processes. We have seen the trauma that can be caused by flawed adoption practices, to the child, the relinquishing family and the adoptive family. Australia must be vigilant to ensure the necessary safeguards are in place to protect parents from being coerced into relinquishing their child, ensure that intercountry adoption is a last resort and that there is appropriate post-adoption care, support and services for children and families.

The Greens are concerned about a number of aspects of the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014:

1. The allowing of intercountry adoptions through bilateral agreements outside of the safeguards, transparency and procedures of the Hague convention;
2. That the bill does not focus on the best interest of the child;
3. That the bill could facilitate an environment for forced or coerced adoption practices to take place;
4. That there is a lack of requirement for post adoption support services.

These concerns were clearly shared and articulated by many submissions and witnesses during the inquiry process.

Risks with bi-lateral agreements

There are many risks associated with adopting through bilateral agreements with non-Hague convention countries. The Hague Convention (1993) has set guidelines which consider the child's interests to be of paramount importance. Bilateral agreements don't necessarily meet the same standards. The stated reason for this bill is to cut waiting periods and allow for easier and more convenient adoptions. 'Benefits to adopting parents are grossly outweighed by the risks associated with adopting children in non-Hague countries'.¹

We know countries that have a very limited child protection system do not have the capacity to monitor individual cases. In these types of countries, individuals or criminal organisations can exploit the loopholes in

1 Damon Martin, Manager, International Social Service Australia, *Proof Committee Hansard*, 28 July 2014, p. 1.

intercountry adoption. Whilst Australia has signed the convention, it is difficult for Australia to monitor the systems in countries that are adopting children that have not signed the convention. For this reason, I think promoting bilateral agreements with non-Hague countries and finalising adoptions in overseas countries have lots of risks associated. So I do not support the bill.²

The Australian Greens agree that the risks outweigh the convenience of speeding up adoption with countries who have not signed the Hague Convention.

The interests of the child are better protected by the safeguards and standards of the Hague Convention. We would prefer that Australia encourage non-Hague nations to become signatories.

Best interest of the child

The Australian Greens believe that all legislation that affects children must be in the best interest of the child. Evidence from Dr Gillespie and UNICEF emphasised the need to keep the interests of the child at the centre of intercountry adoption processes:

We emphasise the best interests of the child test. We note that the CRC, the Convention on the Rights of the Child, talks about 'primary' interests of children whereas the Hague convention talks about consideration of children being 'paramount' in inter-country adoption. UNICEF would not support any dilution of those standards.³

In order to properly protect children and families the first thing we need to do is work with countries to enhance and improve their child protection systems, the interest of the child must stay at the centre of our decision making processes.

In the very first instance, the Convention on the Rights of the Child says that a child should be with its own family. In all circumstances that is what we are striving for. If that is not possible—and that is also about why we do development, to try to bolster systems to ensure that children and families can be supported—then that child should stay in its own culture and with family members or extended family members in that country. Again, our job is to help build systems with those foreign governments to make sure those child protection systems are strengthened before we get into this...If all of that is exhausted—in a way, the convention says that intercountry adoption should be a last resort after those have been exhausted—then we look at how best we can minimise and protect.⁴

2 Damon Martin, Manager, International Social Service Australia, *Proof Committee Hansard*, 28 July 2014, p. 1.

3 Dr Norman Gillespie, Chief Executive Officer, UNICEF Australia, *Proof Committee Hansard*, 28 July 2014, p. 2.

4 Dr Norman Gillespie, Chief Executive Officer, UNICEF Australia, *Proof Committee Hansard*, 28 July 2014, p. 8.

Forced and coerced adoption

The past forced adoption practices in Australia have caused ongoing trauma. As Professor Nahum Mushin, Chair of the Forced Adoptions Implementation Working Group noted, the consultation for the submission for this bill has a 're-traumatising effect on affected people'.⁵ We have a responsibility to ensure that we do not create situations for such practices to re-occur. The Australians Greens are very concerned that this bill could assist in making coerced and forced adoption practices more likely.

It is important to remember that intercountry adoption can take an extended time because of the complex nature of the process.

It takes time and due diligence to ensure that children are genuinely available to be adopted. We do not want to see any more cases where parents adopt into the Australian context only to discover that the child should never have been considered genuinely available for adoption. That is a really complex thing for parents to have to live with. What does that mean then for your parenting, what is meant for your family, what does it mean for the child, what does it mean for the biological family?⁶

Unfortunately, illegal and unethical adoptions are much more likely in non-Hague countries. Without due process and systems around child protection, children and families are at risk of exploitation. 'The more bilateral agreements we have with non-Hague countries, the more unethical and unlawful adoptions we are going to have'.⁷

...it has been noted in other country contexts that sometimes there is not due process around free, prior and informed consent from parents and situations where parents are actually being pressured to surrender their children to adoption programs.⁸

Post-adoption support

We are concerned that a faster adoption process provided by the bill may mean that important supports and services don't occur. One issue that is not included in the bill is post-adoption support. As several of the witnesses stated, appropriate post-adoption support is very important. There is no provision in the bill to ensure that bilateral agreements will be required to have the same standards in post-adoption support and follow up as the Hague Convention. The Hague Convention currently requires post-adoption assessments that usually occur in the first 12 months post-adoption, there is also follow up with the relinquishing family from the country of origin.

5 Forced Adoption Implementation Working Group, *Submission 5*, p. 1.

6 Amy Lamoin, Head of Advocacy, UNICEF Australia *Proof Committee Hansard*, 28 July 2014, p. 6.

7 Damon Martin, Manager, International Social Service Australia, *Proof Committee Hansard*, 28 July 2014, p. 11.

8 Amy Lamoin, Head of Advocacy, UNICEF Australia, *Proof Committee Hansard*, 28 July 2014, p. 7.

It is essential that there is contact and support for the relinquishing family, the child and the adoptive family. There are several issues with post-adoption support, including the need for 'long-term post-adoption support for both families and adoptees and also the support and assessment that is important to go back to the country of origin in that first year'.⁹

Post-adoption support is very, very critical. It is not just the formal reports that Dr Fronek was talking about; it is the informal support that the family needs and may require throughout that child's upbringing. Also, we are funded by the New South Wales government support service for adult adoptees to search for their birth parents overseas. It is important to understand how much of a profound impact that can have on adoptees in later life when they become an adult to find out that their adoption was unethical and unlawful.¹⁰

Conclusion

The Australian Greens have serious concerns regarding the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014. While the Greens are not in complete opposition to intercountry adoption it must be done with extreme caution. Intercountry adoption should be through Hague signatory countries, and only when in the best interest of the child. All safeguards against coerced or forced adoption must be in place and there must be appropriate post adoption support services to the relinquishing family, the child and the adoptive family.

In its current form the Australian Greens cannot support the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014.

Recommendation 1

1.1 The Australian Greens recommend that the bill not be passed in its current form.

Senator Rachel Siewert
Senator for Western Australia

9 Dr Patricia Fronek, Private capacity, *Proof Committee Hansard*, 28 July 2014, p. 6.

10 Damon Martin, Manager, International Social Service Australia, *Proof Committee Hansard*, 28 July 2014, p. 7.