Dr. Catherine Lynch JD.

Submission to the Victorian Law Reform Commision: re. ADOPTION ACT

To the Commission.

I wish to focus my entire submission on the first issue offered by you for discussion which is:

<u>"Ensuring children's best interests and rights are the main considerations"</u>

The peak year of adoptions in Australia was 1972 which means the largest demographic of adoptees is now in their 40s and are trying to get their voices heard. It is a catch-22 that should not be imposed on us that after growing up and acquiring a voice we should then be told that our interests are no longer paramount but are rather a "part of a range of stakeholder interests."

What we have found within the adult adoptee community are 7 main problem areas where our human rights appear to be infringed upon – and therefore these are the aspects of adoption that do NOT fulfil the stated intention of ensuring children's best interests and rights are the main considerations:

1. No welfare checks done on adopted children in private homes. (*Also relevant to: "Eligibility to adopt and the application process"*)

Many adult adoptees testify to being abused within adoptive families but are told that governments and NGOs have no duty of care once we they adopted; we are not within the scope of the Royal Commission into Institutional Responses to Child Sex Abuse. Although adoption by known carers and open adoption may decrease the risk of abuse it appears that adoption is still targeting babies to be placed in the homes of unrelated strangers which leaves them at risk.

2. Original birth certificates replaced with fabricated birth certificates. *[Also relevant to: "Birth certificates of adopted people.]*

This particular bizarre aspect of adoption was developed when adoption's primary function was to hide the shameful offspring of unwed mothers and make it look like the baby was "as if born to" the adoptive parents. Yet we continue to use this form of adoption today when adoption is nothing to do with unwed mothers but rather appears to be used as a child protection measure.

Total severance from family, kin and ancestry, disinheritance and the faking of identity with a second birth certificate was not "thought up" as a child protection measure (nor as a way to "save orphans").

We need to send a STRONG message to the adopted people that their adoption is no longer something to be ashamed about – and send the message to future adoptees

that they can be PROUD of being an adopted person because it represents their strength and resilience.

An Order of Adoption that states the truth about a person's adoptive status should be adequate enough to prove name change for the purposes of identification. In this respect it would be used like a woman uses her marriage certificate to prove her change of name. To fabricate a second birth certificate in this day and age is ludicrous and to argue that children WANT the replacement BC is not good enough: children want it because it represents their security – if you tell them the Order of Adoption represents their security they will want that just as much. First names should NEVER be changed without consent.

However there is no reason why an integrated birth certificate cannot be granted to someone who is old enough to request it. Otherwise, while the adoptee cannot consent, then their true and factual birth certificate should be issued to them and be valid for identification purposes.

3. Disinheritance from birth right without consent.

We are told our inheritance birthrights are "swapped over" when we are adopted. This is not entirely correct.

Any child can inherit off the family on whom they have been dependant - you do not have to be adopted to have access to family provision legislation. It is true that adoption "enhances" this right to inherit off the adoptive parents so it becomes the more "automatic" right to inherit as if a "natural child" of the adopters. However the payoff is total and absolute severance of every legal right – *including* access to family provision legislation, to the estate of the natural family.

Even if this "uneven exchange" means the adoptee benefits materially it is not an *equal exchange of rights*. This means that if adopted people are left destitute by their adoptive families and their natural families have prospered, the adopted person nevertheless has absolutely no grounds upon which to ask a court for relief.

The only other people disinherited by the state in Australia are people who murder their parents, as they are not allowed to profit from their crime. So why are little children subject to this same theft of birthright merely because they were considered 'illegitimate" in the past, or are subject to child protection orders today?

There is no reason why an adopted person's natural birthrights to inherit off their natural family can not remain and exist alongside the inheritance rights they acquire through adoption.

Fears of "double dipping" are irrelevant as stepchildren for instance can inherit off two families. There is not longer any need to punish children for their "illegitimacy" in this way. They should retain that legal link with their mother, family and ancestors.

4. Virtual impossibility for adult adoptees wanting to discharge their adoptions. Adoption is practically ALWAYS done *without the consent of the child* – so to entrap them as adults for life in a legal relationship which they do not desire to be in is tantamount to a from of enslavement.

5. Advertising of children for adoption on the internet and elsewhere

All advertising of children for adoption commodifies the child and contravenes the *Convention on the Rights of the Child* and should be outlawed immediately. If this is not done then every adopted person must be provided with copies of the advertisements in which they are subject and offered for adoption.

6. Access to adoption information (*Also relevant to: "Access to adoption information"*)

There should be no personal information whatsoever withheld from adopted persons at any time including from the time of their adoption. There is no reason for them to have to "wait" until they are 18 years of age to gain information that is theirs by right.

7. Denial of the short and long-term effects of premature maternal separation

Thousands of us were removed in the past when our mothers and families were clearly capable of raising us. We were taken because we were born outside of wedlock.

We are very concerned that the old values that sanction child removal on wide grounds are still with us today.

Where it would seem sensible to assume that violating and destroying the symbiotic system of the post-natal mother/infant dyad by infant removal should only every be done in a desperate situation where a mother was dangerous and violent or extremely neglectful toward her child, the adoption ideology of the past preached broader reasons for taking a baby.

Under the common law, relinquishing guardianship over one's child by a mother or father used to be a crime. Taking a baby would be kidnapping. But adoption ideology changed this and abandoning or removing a child came to be seen as "altruistic," something to be done if the mother is unmarried, if she is not ready for parenthood, if someone else can give the child a better life financially, its what you did, especially, if you didn't want to shame your family and stigmatise your child. You do it, or are a forced to do it, you are told, because it's in the child's best interests.

And when this kind of coercion by deception of the mother didn't work we know that outright lies and even illegal use of force were used to take the baby.

Times have changed, we no longer preach removal because a woman is merely unmarried but these paradoxical and false values have became normative, they have penetrated all classes of our society and they remain active in our society today, continuing to damage people.

Premature maternal separation, occurring long-before babies understand themselves as separate from their mother, long-before their long-term memory is formed, long before they have developed any kind of skill with which to process their loss on a rational level, long before they can understand their own pain, is a preverbal trauma that damages the individual's sense of self which is thereafter marked by feelings of incompleteness, loss and grief and predisposes people to serious mental illness and sometimes suicidal ideation.

We cannot stress enough the need to include a new principle in law and policy that "Recognises and gives all due respect to the rights, interests, needs and desires of the infant to remain with the woman who gives birth to him or her."

This principle needs to be incorporated into the concept of the **best interests of the child** – which should always be paramount as they have no power and must compete with adult power and interests – so that judges and policy-makers are forced to consider **infant rights, interests, needs and desires.**

It is absolutely necessary that "Mandatory Written Information" provided to women who present their baby for adoption, include a description of the full impacts on both her and her child of her "relinquishment:"

For her baby she need to be informed of the short-term impacts of separation – that infants do, in fact, suffer in the loss of their mother and of the long-term impacts on the adoptee which include the possibility of "a sense of loss of self and disconnection from others, feelings of abandonment, worthlessness and grief, which can manifest in adulthood as anxiety, depression, rage, mental illness and suicidal ideation."

Similar symptoms are known to manifest in women who lose their child irrevocably to adoption.

If **the post-natal mother/infant dyad** is recognised and protected in law and policy in this way then the abuse of child rights that we see in adoption – and now by extension in all forms of surrogacy - will be reduced because **the rights, interests, needs and desires** of every human being during the time that is commonly known as "the fourth trimester" will be recognised, acknowledged and protected.

Thank you,

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