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Attn: Secretary,
Social Policy Scrutiny Committee,
GPO Box 3721,
DARWIN
NT 0801

Re: ADOPTION OF CHILDREN LEGISLATION AMENDMENT (EQUALITY) BILL 2017

The Australian Christian Lobby (ACL) welcomes the opportunity to comment on the *Adoption of Children Legislation Amendment (Equality) Bill 2017*.

Some of the proposed changes result from recognition of the need to address issues that arise from amendments to the Federal Sex Discrimination Act in (2013), which makes it unlawful to discriminate, on the basis of relationship status, sexual orientation, gender identity and intersex status. Concerns of unfair discrimination may be enlivened by the automatic disqualification of de facto or same sex couples from the ability to apply to adopt a child. There is, therefore, an argument to be made for expanding the current limitations on who may and who may not apply to adopt a child.

The ACL is pleased to notice that the proposed amendment does not compromise or qualify the existing provision in s8(1) of the *Adoption of Children Act*, that “the welfare and interests of the child shall be the paramount consideration”.

The process of applying to adopt a child involves a strict assessment of that person or that couples’ suitability to adopt that requires ministerial and court approval. That assessment does consider a whole range of factors like family background, relationships, health, finances, employment, motivation to adopt, home environment, other members of the household including children, lifestyle and supports and more.¹

Inevitably, every assessment process will involve discernment in individual cases regarding the suitability of particular couples. In this context, it is not unreasonable to prefer some

¹ Ms WAKEFIELD (Minister for Territory Families), “ADOPTION OF CHILDREN LEGISLATION AMENDMENT (EQUALITY) BILL (Serial 39)”, *Debates*, Parliament of Northern Territory Hansard, 23 November 2017, p. 16. (Available here: https://parliament.nt.gov.au/data/assets/pdf_file/0017/463202/DEBATES-DAY-3-23-NOVEMBER-2017.pdf)

family configurations over others, as inherently beneficial (or even just less problematic) to children and thus to be preferred, where choice is possible.

Despite the radical social constructionist view of the human person now enshrined in the Sex Discrimination Act (in which biology plays no part in the formation of identity), the ACL contends that a mother is different from a father. Nature provides a child with one (and only one) of each. The overwhelming weight of social science evidence demonstrates that children do best – all other considerations being equal – when raised by their married mother and father.² The care of a mother and father for their children forms the basis for the normative nuclear family structure. Where circumstances have deprived a child of their mother and father, the government has an obligation to emulate, as closely as possible, what has been lost.

This will have the effect – where all other considerations are equal – of causing monogamous, heterosexual couples, to be preferred as adoptive parents over single parents, same-sex couples, or polyamorous groupings. While this understanding might trigger concerns of discrimination according to the Sex Discrimination Act, this is unproblematic while it is clearly understood that the best interests of the child – rather than equality of outcome with regard to the sexual orientation of private dwelling arrangements of adults – is the primary consideration in cases of adoption. The revision of the adoption legislation to ensure ‘equality’ for adults (as even the title of this Bill makes clear) ignores the fact that this must always be a secondary consideration to the best interests of the child.

In attempting to accommodate institutions of human importance in which gender and biological sex manifestly play a role (such as the roles of mother and father) to the requirements of genderlessness imposed by adherence to a radical social constructionist worldview that informs the Sex Discrimination Act, there is a risk that the primary obligations of the government to secure the familial environment most conducive to flourishing for the adoptive child may be overlooked. It is not unreasonable to prefer a home that would provide a child with diversity of gender roles, over one that would not. Equally it is not unreasonable for the relevant agencies to prefer homes that offer two parents over those that offer only one or else more than two.

ACL is concerned that the importance of providing both a mother and father, who are committed to each other for life to every child where this is possible may be obscured if revised legislation is unduly concerned to signal obeisance to an artificial requirement for genderlessness.

There are reasonable arguments to be made for allowing de facto couples, and same-sex partnerships to apply to become adoptive parents. If “Territory Families is committed to removing legal barriers that currently discriminate against people on the basis of their marital status and sexual orientation, so that couples in de facto relationships and same-sex partnerships can be eligible to apply to adopt in the Northern Territory”³, consideration will

² See, for example, Mark Regnerus "How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study", *Social Science Research*, July 2012, vol. 41(4), pp. 752–770. doi:10.1016/j.ssresearch.2012.03.009. PMID 23017845

³ Ms WAKEFIELD, op.cit.

need to be given to if, and on what basis, polyamorous partnerships can then reasonably be excluded from similar eligibility.

In all cases, the best interests of the child must be the priority consideration. Given that the number of couples wishing to adopt vastly outnumbers the number of children available for adoption, it would be difficult to see how new scrupulousness with regard to consideration of anti-discrimination for adults could justifiably be translated into procedures for the selection and assessment of prospective parents that differ from those presently in operation.

Regards,

A handwritten signature in cursive script that reads "W Francis".

Wendy Francis
Queensland State Director
Australian Christian Lobby