Supplementary Submission

The Thin End of the Wedge—are past draconian adoptive practices re-emerging in the 21st Century?

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International[1] and domestic law[2] was implemented to protect the civil and human rights of minority and/or disadvantaged groups. But according to welfare workers both here and in the United States substance abusing parents is an at risk group suffering mental health problems and poverty whose rights are being violated by the removal of their children.[3] They state this is a punitive measure that creates more problems than it solves.[4] The Australian government is failing in its duty of care to protect this vulnerable group.

> "Drug dependency is a chronic relapsing mental health condition recognised as such by the International Classification of diseases (ICD-10_ of the World Health Organisation and the Diagnostic and Statistic Manual (DSM-IV) of Metal Disorders of the American Psychiatric association. [5]

Often substance abusing parents were themselves abused as children, many being victims of past poor welfare practices. [6] Rather than being discriminated against by having their children removed families or mothers in crisis should be given the same support and access to care as would be made available to any other person suffering a disability.[7] To put this into context a depressed mother can cause more damage to her baby than one who is drug addicted, but not suffering depression. Yet we do not routinely remove the children of depressed or anxious mothers. It is therefore more about punishment of the parent than supporting the child. [8] Being depressed is considered something we have no control over whereas the general consensus is a drug addict chooses that lifestyle. Simplistic reasoning that is just not true.

Rehabilitation for drug addicted mothers has proven successful both here[9] and the US[10] and safer for the child than being placed with strangers in the foster care system.[11] Research also indicates that chances of successful treatment increase dramatically when parents are allowed to keep their young children with them.[12] Research also provided evidence that the infants of drug addicted mothers being given supportive treatment did better than babies taken and fostered. Leaving researchers with the opinion that separation from their mothers was more toxic than cocaine.[13] Keeping children with parents, whilst offering supportive preservation services and drug treatment is safer, more stable and less traumatic for children than being in the care of strangers in the foster care system.[14] For instance large proportions of homeless adults grew up in foster care.[15]

The net that catches those the State deem unfit is cast very wide indeed. The homeless, women who consume too much alcohol or smoke heavily, survivors of domestic violence are all at risk of being reported to DOCs and having their child/ren removed.[16]

The focus on removing children from substance abusing parents is directly connected to Bronwyn Bishop's chairing of two inquiries.[17] Bishop's support for and promotion of adoption coinciding with her zero tolerance of drug abuse has resulted in her calling for all children under five to be immediately removed from their parents and placed out for adoption[18], irrespective of whether they are still using drugs or actually causing them any harm.[19] It also coincides with the fact there are fewer infants available for adoption.[20] The fear that many survivors of the white[21] stolen generation have is that children once again will lose all contact with parents and extended family. Further the child will receive a new birth certificate effectively obliterating the child's former identity. This could very easily end up being another dark chapter of Australian history with yet another stolen generation.[22]

In the substance abuse Inquiry persons who disagreed with Bishop's perspective were openly attacked, ridiculed[23] and the final Report did not reflect the evidence of the attending experts or what those working on the ground found to be best practice.[24] Similar objections were made about her attitude in the Inquiry into intercountry adoptions. Experts in child care were outraged by her recommendations,[25] as were family members of substance abusers.[26]

Bishop has been openly supportive of adoptive parent groups and supports the Deborra-lee Furness campaign to overhaul adoption laws in Australia.[27] Bishop's response to adoptive parents' claim at the Inquiry of being discriminated against because of the so-called 'anti-adoption' culture causing them lengthy delays in adopting was: "Shocking."[28] The 'anti-adoption' slogan was used extensively by Bishop and pro-adoption forces in their campaign to advance their agenda of expanding the overseas adoption program. Bishop seems to have forgotten that the fundamental principle in intercountry adoption is that Adoption is a service for children not for adults wishing to acquire a child.[29] Bishop's recommendations and the fact the government never corrected the lie repeated throughout the media that there are millions of orphans needing adoption is another worrying sign that there is indeed a push back towards adoption.[30] The government is very well aware that there are not enough orphans to meet the needs of western adopters and demanding them only creates black markets and child trafficking.[31]

Originally it was felt with a change of government Bishop's cruel and backward looking recommendations would be relegated to the historical dust heap,[32] but unfortunately her anti-family pro-adoption stance has hit a chord. It resonates with an underlying ideology in areas of child welfare that believe if parents are unfit rather than be supported they should be punished by having their child/ren removed.[33] It resonates with infertile couples who want to adopt[34] as literally the supply of infants for adoption has all but dried up.[35] It resonates with Government because in the short term it is the cheapest option.[36]

In December 2008, parents described as "recreational cannabis users" had their two children removed: a 15 month-old girl and a month-old boy. They fought all the way to the Supreme Court to get their babies back. There was no evidence of child abuse and the judge "slammed DOCS staff who forcibly removed two babies … [as] gross abuse of power".[37]

Nearly 200 babies were taken into care in Victoria in 2008. [38] Once taken, it is very hard, particularly for poor mothers, with mental health problems, to regain their children. Asked if parents could reclaim their children Bishop stated: "No, not after adoption."[39]

In February 2009 a Report[40] was released that seems to add weight to the assumption that Bishop's recommendations are being taken seriously. The Report states that 14% of Victorian children being placed in care are under 12 months old and are generally removed because their parents are substance abusers or the mother has been exposed to domestic violence. The Report focuses on issues around parental visitation – time and frequency. The Report is worrying for a number of reasons. It seems to be moving towards formalising the removal of infants by:

1. Promoting foster care of babies
2. Advocating support for foster carers rather than support for families in crisis
3. Advocating to limit access to infants by family members
4. Failing to acknowledge bonding in-utero[41]
5. Failing to adequately acknowledge the trauma of separation for infants– especially babies under 3 months
6. Does not highlight any of the problems inherent in the foster care system[42] or high levels of psychological damage amongst fostered and adopted children[43]
7. Promotes kinship care for Indigenous, but not non-Indigenous[44]
8. Ignores research that underscores the necessity for contact with family[45]

In failing to acknowledge that an infant bonds in-utero and to assume that bonding is the product of parenting by a primary care-taker repeats the mistakes of past removal policies. [46] The relationship between mother and child is diminished and support for the mother is given less relevance. Why support the mother if any other carer will do? This was the assumption on which the practice of removing thousands of infants at birth from their unwed mothers was based. It was assumed that the infant would automatically bond to who ever fed and nurtured it, therefore any contact with its biological family was deemed unnecessary. The adoption industry, which was based on the demand for adoptable white infants,[47] ignored all other research or anecdotal evidence that did not support that contention.[48] There is now a huge body of research that indicates that the infant and mother are a dyad, and separating them causes major psychological damage to both.[49] Further that separating a child from its family and knowledge of ancestry increases the risk of suicide threefold and pre-disposes the individual to life long mental health problems.[50] The Report states that a flaw in its methodology was the researchers were not able to gauge the infant's perspective. Researchers working in other areas have documented in detail the neurological and developmental damage sustained by an infant removed from its mother. The Report focused on research from the 1960s to support is position for placing children in foster care and gave great weight to a study done by Quinton, Rushton, Dance & Mayes in 1997 that was strongly criticised by another researcher for being methodologically flawed and failing to include extensive research on the importance of maintaining links for children with their families.[51] When parents divorce it is considered important for the psychological health of the child to maintain links with the non-custodial parent and extended family – why is there such a push to limit contact in foster care and to move towards permanent extinguishment of all parental contact by the use of adoption?[52] Knowing the cost to both infant and mother by separating them is like continuing to promote tobacco when you know it causes cancer.[53]

An Inquiry into past adoption practices held between 1998-2000[54] heard nearly 400 stories from women stating they had their children stolen. These findings were further supported by an inquiry conducted by the Tasmanian government.[55]

Indigenous representatives from the group Link-Up gave evidence at the NSW Inquiry[56] stating that Aboriginal mothers similarly had their children stolen by the same social workers, doctors and nurses using the same brutal methods in the same hospitals as white mothers. Pillows and sheets were used to prevent mothers from seeing their infants at the birth to stop the bonding process. Mothers were drugged and forcibly restrained and, if they persisted to refuse to sign papers, they were threatened with being reported as unfit mothers and having their consents dispensed with anyway or in some cases told their baby had died. It is not surprising then that in 1972 nearly 10,000[57] newborn babies were permanently separated from their mothers and made available for adoption. When these practices were curtailed adoptions dropped and have continued to drop so by 2007 there were only 59[58] adoptions and most were special needs not newborns.[59]

Australia has a shameful history of child removal practices,[60] not only of Indigenous but of non-Indigenous babies and children.[61] The government has acknowledged there is a white stolen generation.[62] Yet we were not included in the 2008 apology. If a white mother's partner was Indigenous then he and their children have been apologized too, but the white mother has not. The Rudd apology included Indigenous mothers who were subject to the same laws as their non-Indigenous sisters. In a recent legal case it was stated that the opinion of the Solicitor General to the Government in 1949 and 1954 was that the Aboriginal Protection Board "did not have the power to remove neglected Aboriginal children from their families."[63] The forced removal of children and infants was undertaken under the authority of State Child Welfare Acts. The Australian Government promoted adoption of white babies and had a policy of not allowing mothers who were unsupported to see their child at the birth, have access whilst confined or the opportunity to feed their infant. The *Adoption Acts* rather than protect mothers' rights were instrumentally used to legitimise their newborn's removal.[64] History unacknowledged is history repeated and we fear Bronwyn's agenda is just that.

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[1] *Universal Declaration of Human Rights* 1948; International Covenant on Civil and Political Rights (entered into force March 23, 1976); *International Covenant on Economic, Social and Cultural Rights* (entered into force in March 10, 1976); Convention on the Elimination of All forms of Discrimination against Women (entered August, 1983); *Conventions on the Rights of the Child* (entered into force Jan 16, 1991)

[2] *Anti-Discrimination Act 1977* (NSW); *Disability Services Act 1986* (Cth); *Disability Services Act 1993* (NSW)

[3] White, C Federally Mandated Destruction of the Black Family: The Adoption and Safe Families Act http://www.law.northwestern.edu/journals/njlsp/v1/n1/12/index.htm

[4] Wexler, R. (2006). Statement of Richard Wexler, Executive Director, National Coalition for Child Protection Reform, Alexandria, Virginia May 23 http://waysandmeans.house.gov/hearings.asp?formmode=view&id=4962 ; Overington, C. (2008). Foster Care in Response to Child Abuse harmful *The Australian* Nov 17, http://www.theaustralian.news.com.au/story/0,25197,24660068-28737,00.html

[5] Submission of Families and Friends for Drug Law Reform to the Inquiry into the Early Intervention and Care of Vulnerable Infants in the ACT *Nobody's Children Inquiry* Standing Committee on Health and Disability of the Legislative Assembly for the Australian Capital Territory Submission No. 13 May 22, 2008, p. 15 http://www.ffdlr.org.au/submissions/docs/ACTChildProtectionRev.pdf
[6] Mirabel p. 9, http://www.mirabelfoundation.org.au/uploads/Parental_Drug_Use__A_Recent_Phenomenon.pdf
[7] Australia is now a signatory to the Convention of the Rights of Persons with Disabilities Australia could stand in breach of several of its Articles: 13, 14, 15, 16, 22, and particularly 23: Respect for home and the family & 25: Health. http://www.un.org/disabilities/convention/conventionfull.shtml
[8] Luthar, S & Sexton, C. Maternal drug abuse versus maternal depression: Vulnerability and resilience among school-age and adolescent offspring Developmental and Psychopathology, 19, pp. 205-227
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[11] Willwerth, J, "Should We Take Away Their Kids? Often the best Way to Save the Child is to Save the Mother as Well, *Time*, May 13, p. 62
[12] US Department of Health and Human Services, Centre for Substance Abuse Treatment, (2001). Benefits of Residential Substance Abuse Treatment for Pregnant and Parenting Women (Washington DC: September
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[15] Statement of Anita Weinberg (1993). Hearing before the Sub-committee on Human Resources on the Committee on Ways and Means House of Representatives One Hundred and Third Congress, Chicago Illinois http://liftingtheveil.org/weinberg.htm
[16] New South Wales Dept of Health, prepared for: NSW and SA Dept. of Health's Intergovernmental Committee on Drugs (2006). National Clinical Guidelines for the Management of drug use during pregnancy, birth and the early development years of the newborn endorsed by Ministerial Council on Drug Strategy http://www.health.nsw.gov.au/pubs/2006/pdf/ncg_druguse.pdf p. 47
[17] House of Representatives Standing Committee on Family and Human Services, The Parliament of the Commonwealth of Australia, *Overseas adoption in Australia: report on the inquiry into adoption of children from overseas;* House of Representatives Standing Committee on Family and Human Services (2007). The Winnable War on Drugs: The Impact of illicit drug us on families, Sept 13, http://www.aph.gov.au/house/committee/fhs/illicitdrugs/report.htm
[18] Santow, S. (2007). Bishop wants rethink on addicts' children July 23, *ABC* http://www.abc.net.au/am/content/2007/s1985268.htm ; Bunce, J. (2007). Adopt out the children of drug addicts *The Australian* Aug 27, http://www.lyinx.com.au/page.aspx?docid=28
[19] Guggenheim, M. Somebody's Children: Sustaining the Family's Place in Child Welfare Policy Harvard law Review, 113(7), p. 1718 : Guggenheim is highly critical of adoptive mother and activist who similarly urges the immediate removal of children from whom she deems unfit and recommended that public officials "remove children even if physical safety is not at issue"
[20] Garrison, M. (1996-197). Parents' Rights VS. Children's Interests: The Case of the Foster Child *N.Y.U. Review of Law and Social Change* 371, p. 376
[21] White as a social construct, not denoting colour, referring to White Australia as opposed to Black Australia or non-Indigenous as opposed to Indigenous Australians.
[22] House of Representatives Standing Committee on Family and Human Services, The Parliament of the Commonwealth of Australia, *Overseas adoption in Australia: report on the inquiry into adoption of children from overseas*, p. 2, 1.1: 'The stigma associated with forced adoption practices in the past leading to 'the stolen generation' (for both Indigenous and non-Indigenous mothers and children)': http://www.aph.gov.au/house/committee/fhs/adoption/report.htm
[23] Macintosh, A. (2007). Sensationalism no way to fight drug addiction *The Age*, March, http://www.theage.com.au/news/opinion/sensationalism-no-way-to-fight-drugs/2007/03/19/1174152967041.html# ; House of Representatives Standing Committee of Family and Human Services (2007). Official Committee Hansard, Dr. Alexander David Wodak, President,

Drug Law Reform Association, April 3, p. 82
http://www.aph.gov.au/hansard/reps/commttee/R10159.pdf

[24] Ibid, Macintosh stated that in 2003 the House of Reps called for the abandonment of harm minimisation this reflected the Howard Government's "tough on drugs policy". In 2006 the Parliamentary Joint Committee on the Australian Crime Commission advocated for harm minimisation stating prohibition was ineffective and drugs should be a health not a criminal issue – Bishop's Inquiry ignored these findings and reaffirmed Howard's agenda
http://www.aph.gov.au/SENATE/committee/acc_ctte/completed_inquiries/2004-07/aosd/report/a01.htm

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http://www.smh.com.au/news/opinion/children-need-protection-from-the-grassroots-up/2007/12/17/1197740178867.html ;
President Brian McConnell said "It is a disgrace that a committee of our national parliament should display the ignorance that it had done and close its mind to reason and science" cited in Bunce, J. (2007). 'Adopt out' the children of drug addicts, The Australian, August 27,
http://www.lyinx.com.au/page.aspx?docid=28

[26] Bunce, J. (2007). 'Adopt out' the children of drug addicts, The Australian, August 27,
http://www.lyinx.com.au/page.aspx?docid=28

[27] http://www.orphanangels.com.au/; http://www.adoptionawarenessweek.com.au/ ;

[28] House of Representatives Standing Committee on Social Issues (2005) Aug 3, p. 33
http://www.aph.gov.au/hansard/reps/commttee/r8444.pdf

[29] Principle 3 National Principles in Adoption Australia 1997. "Central authority should only find family at the behest of sending countries not seek children in countries for families wishing to adopt them" cited in Submission by the Government of South Australia to the House of Representatives on Family and Human Services Inquiry into adoption of children from overseas (2005), p. 8

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http://www.brandeis.edu/investigate/gender/adoption/index.html

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http://www.theage.com.au/national/adoptions-from-abroad-take-a-dive-20080911-4es8.html

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[42] Guggenheim, M. Somebody's Children: Sustaining the Family's Place in Child Welfare Policy *Harvard Law Review*, 113(7) p. 1716, May
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