



THE LAW SOCIETY
OF NEW SOUTH WALES

Our Ref: HumanRightsCommittee:VK:1308778

18 August 2010

The Hon. Kristina Keneally MP
Premier
Minister for Redfern Waterloo
GPO Box 5341
Sydney NSW 2000

Dear Premier,

Re: Adoption Amendment (Same Sex Couples) Bill 2010

The New South Wales Law Society's Human Rights Committee ("the Committee") has responsibility to consider and monitor Australia's obligations under international law in respect of human rights; to consider reform proposals and draft legislation in respect of issues of human rights; and to advise the Law Society Council on any proposed changes.

The Committee welcomes and supports the *Adoption Amendment (Same Sex Couples) Bill 2010* (the "Bill"). In the Committee's view, the changes proposed by the Bill to the *Adoption Act 2000* (the "Act") are both appropriate and overdue.

Article 21 of the *Convention on the Rights of the Child* (CRC), to which Australia is a signatory, requires that countries which recognise/permit adoption ensure that the best interests of the child are the paramount consideration. However, Australian laws precluding same-sex couples from adopting on the grounds of their sexuality may constitute a breach of Article 21 of the CRC as a "blanket ban on adoption by same-sex couples prevents an objective case-by-case assessment of what is in an individual child's best interests."¹

The report of 2009 tabled by the NSW Legislative Council Standing Committee on Law and Justice is similarly of the view that "the best interests of the child in relation to adoption will be served by decisions based on the individual needs of the child and the individual capacities of the prospective parents, without regard to the sexual orientation of the parents."² This report concluded also that ending discrimination against same-sex couples under adoption law serves the best interests of children.³

The Committee thanks you for your attention and respectfully urges that the Bill be passed without further amendment.

Yours sincerely,


Mary Macken
President

¹ Australian Human Rights Commission, *Same-Sex: Same Entitlements*, 2007 at p.51 available online here: http://www.humanrights.gov.au/human_rights/samesex/report/download.html (accessed 11 August 2010)

² NSW Legislative Council Standing Committee on Law and Justice, *Adoption by same-sex couples*, tabled 8 July 2009 at para 5.169

³ *Ibid.* at para 5.171