

NAGALRO URGES THE LABOUR PARTY TO INCLUDE A MANIFESTO PLEDGE TO REINSTATE THE REPEALED PROVISIONS OF S1(5) ADOPTION AND CHILDREN ACT 2002

Nagalro requests the following are included in the Labour Manifesto:

- 1. Reinstatement of the (for England) repealed provisions of S 1(5) of the Adoption and Children Act 2002.**

or

- 2. That the Welfare Checklist, in Section 1 (4) of the Act should be amended to include considerations of ethnicity, language and religion, as recommended by the House of Lords Select Committee 2012 on Adoption, chaired by Baroness Butler-Sloss.**

and

- 3. The creation of a task force dedicated to addressing ethnic, religious, and racial disparities in the adoption system as recommended by the House of Lords Select Committee in November 2022 on the workings of the Children and Families Act 2014 (paragraph 69).**

1. Who is Nagalro?

Nagalro is the professional association for Children's Guardians, Family Court Advisors, and Independent Social Workers. It has nearly 1000 members who have many years of experience working with and representing children and young people in the full range of family proceedings in both public and private law matters.

The Nagalro BCLM (Blackⁱ Children's Lives Matter) sub-group was set up in 2020. The group's focus is to look specifically at the difficulties facing Black children, with whom Nagalro members are involved because they are disproportionately represented within the Local Authority care system. The group aims to raise awareness about the needs of Black children, promote high standards of social work practice to meet Black children's needs, influence social policy for the benefit of Black children, and address any practices in social work which discriminate against Black children.

2. Why are we asking this?

Nagalro is very concerned about the impact on Blackⁱⁱ children of the repeal of s1(5) of the Adoption and Children Act 2002 by the Children and Families Act 2014. This legislation removed the requirement that adoption agencies should 'give due consideration to the child's religious persuasion, racial origin and cultural and linguistic background.' There was no good evidence that this was in the children's interests or that it would actually shorten waiting times for adoption.

The impact of the deletion of section 1(5) of the Adoption and Children Act is that Black children can now be placed with families who do not reflect their heritage and who are not able to meet their cultural, religious and linguistic needs and so that they are likely to grow up not being able to connect with their own communities nor sure that they will be fully accepted into the communities in which they have been placed. Their visibility as adopted children becomes more obvious, and their sense of self and their identity and development as Black children is significantly impaired. It is also likely to diminish their ability to deal with racism. Nagalro considers this would be emotionally abusive to these children. Nagalro also considers that as a result of the deletion of s1(5), Black children are in effect being treated differently to their white counterparts, who are almost certain to be placed with parents who reflect their cultural, religious, and linguistic needs.

Institutional racism affects Black people in all walks of life, none more profoundly than within the care system. We know that Black children are more likely to be removed from their parents through care proceedings than other children and that they will generally wait much longer for adoptive placements than a comparable white child. As a response to this, for children in England, (but not Wales) s1(5) of the Adoption and Children Act 2002 was repealed by the Children and Families Act 2014, to remove the requirement that adoption agencies should 'give due consideration to the child's religious persuasion, racial origin and cultural and linguistic background.' From the Explanatory Notes to the 2014 Act and the debates which took place in Parliament when the Bill was before the House of Commons, it is very clear that these provisions were only to apply to Black children being placed with white adopters and not to white children being placed with Black adopters and we consider that this action in 2014, therefore, constitutes indirect racism.

Nagalro believes that this reform was and remains the wrong solution. The removal of section 1(5) from the Adoption and Children Act 2002 is in danger of creating a policy of 'colour-blind' adoption; it also avoided tackling deeper problems by focussing on the perceived wishes of the adult adopters instead of the wishes, feelings and needs of the children who were to be adopted.

Nagalro questions how the repeal of this legislation sits with the Equality Act 2010. It was never suggested that we were moving to a 'colour-blind' system for adoption. The Explanatory Notes to the 2014 Act specifically refer to dealing with delays '*so that Black and minority ethnic children are not left waiting in care longer than necessary because local authorities are seeking a perfect or partial ethnic match*'. Parliament never intended this to be of universal application and it follows that Black children are treated less favourably than others.

Nagalro believes that what should be done is to address, firstly, the reasons why disproportionate numbers of Black children find themselves in care and, secondly, why there are insufficient Black adopters and address this concern. We firmly believe that the repealed provisions of s1(5) Adoption and Children Act 2002 must be reinstated. Adopted children have to deal with the fact of being adopted. The additional emotional burden to their identity development and sense of self as a result of being inappropriately placed is an unnecessary burden which we consider is not in their interests and the government was using a very simplistic solution to tackle a much more complex problem.

3. House of Lords response 2012:

The select committee of the House of Lords produced a very detailed and considered report published on 19th December 2012,ⁱⁱⁱ *Adoption: Pre-Legislative Scrutiny Report*. In the Report, the summary indicated

“We share the Government’s belief that children should not experience undue delay whilst a search for a perfect or near-perfect ethnic match takes place. We believe that considerations of race, culture and language are essential components of a child’s identity. We are concerned as to how the removal in England of Section 1(5) of the Adoption and Children Act 2002 will be interpreted by those working in the field, and that it may be seen as a signal that race and ethnicity should be given no weight in the matching process. A better balance needs to be achieved. We, therefore, propose that the Welfare Checklist, in Section 1 (4) of the Act, should be amended to include considerations of ethnicity. This will ensure that issues of race, religion, culture, and language are considered alongside other elements of a child’s welfare.”

Importantly, the House of Lords Select Committee quoted Article 20 of the United Nations Convention on the Rights of the Child; that children who cannot be looked after properly by their own family have a right to special care and “when considering solutions due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.”

The select committee’s report indicates that “the change in legislation (repealing s1(5) Adoption and Children Act 2002) is intended to both overcome any suggestion that legislation places ethnicity above other considerations when seeking an adoptive match and, also to facilitate the matching of children with their prospective adoptive parents more quickly...it is unacceptable for a child to be denied adoptive parents solely on the grounds that the child and prospective adopter do not share the same racial or cultural background”

4. Children and Families Act 2014: A failure of implementation.

The report of the House of Lords’ Children and Families Act 2014 Committee was published on 6th December 2022.^{iv} The report’s title is *A failure of implementation* and sets out how something, envisaged as a landmark piece of legislation, is instead a “missed opportunity.” The committee considered the repeal (for England but not Wales) of the requirement in s1(5) of the Adoption and Children Act 2002. The Committee found that the Government had not conducted any research into the impact of the repeal and that Black children still wait for the longest to be matched with a new adoptive family. The Committee accepted Nagalro’s evidence and recommended the creation of a task force dedicated to addressing ethnic and racial disparities in the adoption system.

In response to the report of the House of Lords, the Government provided a response dated February 2023.^v The government did not agree that they needed to set up a new task force dedicated to addressing ethnic and racial disparities in the adoption system because, in 2022, the Adoption and Special Guardianship Leadership Board (ASGLB) – an independent board set up to advise the Government on improving policy and local practice – set out a range of measures

which should be taken to recruit Black adopters and match Black children, rebuild trust, and resource interracial adoption. The Government indicated that it is committed to implementing the recommendations in this report in full.

It is of note that the Adoption and Special Guardianship Leadership Board (ASGLB) was closed at the end of December 2022. The ASGLB Board did produce a report *Ending Racial Disparity in Adoption* in 2022. The report commits to investing time and energy into the targeted recruitment of Black adopters, however, supports that interracial adoption “should continue.” It considers ways of supporting such placements including undertaking research to include interracial adoption in all adoption research. However, if the ASGLB has been disbanded, the recommended work is unlikely to take place. The Government's response to the House of Lords report in relation to the deletion of s1 (5) appears, therefore, to be disingenuous.

Nagalro considers the government's response to the findings of the House of Lords report to be a retrograde step since this promotes the ongoing support of placements which are known not to be in the child's interests and ignores the lifelong needs of the child.

5. The matching process in adoption:

The ‘matching process’ is the process by which adoptive parents are identified as future parents for a particular child it is designed to find a match that best suits and reflects that child's particular needs and to ensure that a placement is a success and for the child to achieve long-term stability in that placement. If the match ignores a child's race, religion, cultural or linguistic background, that match cannot be considered to meet all a child's needs, which are integral to their sense of self and ability to function in the world. The Adoption Strategy Report^{vi} says (p31) that ‘making a good match between a child and prospective adopter is a highly skilled task and is vital for both the child and the prospective adopter’, which is a contradiction if a child's race, religion, culture, and language are to be excluded in such a matching process. By ignoring these vital aspects of a child's identity, we are denying children their basic human rights.

6. Conclusion:

Labour has always prided itself on its commitment to anti-racism and equality. The Labour Party is therefore urged to accept Nagalro's view in acknowledging the importance of a child's religious persuasion, racial origin, and cultural and linguistic backgrounds to the child's emotional, cultural and identity development and therefore in its manifesto include a commitment to addressing our concerns to prevent subjecting children who are being placed for adoption to institutional discrimination.

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ⁱ [Recognizing Race in Language: Why We Capitalize “Black” and “White” - Center for the Study of Social Policy \(cssp.org\)](https://www.cssp.org/)

Black with a capital B refers to people of the African diaspora. Lowercase black is simply a colour.”

ⁱⁱ “Black” is a political definition to refer to a population who are liable to be subjected to racism based on their skin colour.

iii Printed 13th December and published 19th December 2012.

iv Children and Families Act 2014: A failure of implementation printed 21st November 2022 and published 6th December 2022.

v "The government Response: Post Legislative Scrutiny of the Children and Families Act (2014) February 2023: (DOE).

vi Adoption Strategy Report: DOH 2021.