



**Origins Vic Inc,
P.O. Box 1234,
Collingwood,3066
Victoria,
Telephone (03)98120215**

Report From Origins Vic Inc

Contact person: Elizabeth Edwards

To the: Legal and Constitutional Affairs Legislation inquiry into the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014

Origins is an organisation representing People who have been separated because of Adoption. We are an organisation who support each other and together are focused on healing from the past practice of separating Mothers and their babies in an unethical, illegal and inhumane way and advocated by the wider community to supply a catharsis for people very often infertile. Our other aim is to educate the community to the trauma suffered by both Mother and the person adopted. There is no triangle there is only a mother whose society denied her maternity, and thereby forced her and her child abducted to live a created reality imposing upon them the lie that they were not already a family

We would like respond to the introduction of the Intercountry Adoption Bill 2014 based around:

- 1) Child Centred practice;
- 2) The Child and family of origin;&
- 3) Long term adoption impacts.

1. Child Centred Practice

United Nations (UN) Convention of the Protection of Children and Cooperation in Respect to Adoption (1993) and The Convention of the Rights of the Child documents use the phrase in the “best interest of the child” and this must be a primary concern in all situations involving children. The ‘child’ is to be perceived at the centre of the relationship in the adoption process and not the adults wishing to adopt a child.

Tony Abbott, Prime Minister launched the Report of the Interdepartmental Committee on Intercountry Adoption where he spoke of the changes being announced enabling more people to have families (Fronek, 2014). This language suggests a change in Government child adoption policy in Australia allowing a greater adult consumer focus, rather than the process to be child centred.

There are human rights concerns that children will easily become seen as products in a free market and the proposed changes will make the process potentially “*cheaper, quicker and easier*” for adoptions to occur of children in a number of countries (Fronek, 2014). In this scenario, children can become commodities potentially to be traded or bought and sold to the highest bidder. Many children adopted come from poorer countries and families and their lives are impacted by poverty, poor health conditions and medical services. Unequal power relationship exists between the family of origin and the adopter/s and there is likely to be language and cultural differences between the parties. The family of origin may not have access to adequate support and information to assist in the adoption process and their rights may be overshadowed in the process. Origins advocates that any consent should be true and be informed and adequate and legal processing needs to be undertaken with care to ensure the rights of the child are protected and also those rights of the family of origin.

Michael Edwards, ABC reported (21/2/2013) on the story of an Indian family who had their daughter kidnapped and then adopted by Australians. There are many other stories from other countries such as

Cambodia, Indonesia, Guatemala, Romania, Sri Lanka and Ethiopia where legal processes have not been followed for intercountry adoptions. In Ethiopia adoptions were closed by the Government through such breaches. Another Victoria couple believed they were getting a child legally and were rejected by Australian authorities when they tried to have their child's citizenship changed. Some mothers have been lead to believe their children were to receive a better life and an education overseas and were not sent to be adopted. These issues relate to the lack of informed consent and third parties profiteering in the adoption process. Such stories demonstrate that the current laws and practices around intercountry adoption are open to exploitation. These stories should provide a warning to the Federal Government about the dangers of weakening any focus on the rights of the child or short cutting adoption processes without ensuring there are adequate checking systems and legal transparent processes in place.

A proposed amendment allowing the adopted child to travel to Australia as an Australian citizen thereby removing the need for a child to obtain a passport of the home country and an adoption visa is of some concern to Origins.

Countries who are not party to the UN conventions as mentioned above are not bound by processes to ensure that the rights of the child remains the central concern. Fronek (2014) argues that changes suggest:

“Australia is abdicating its international responsibilities by simply trusting processes in sending countries. The way children are made available overseas is not the same as in Australia.”

Clearly responsibility still rests with the Australian Government to ensure what occurs in any country in regards to intercountry adoption is above board and consistent with UN Conventions. Where a passport is no longer required for a child, this is a point that the child and family is open to exploitation. As a result of this change, there is potential for an increase in baby trading and farming as it could become a lucrative business if demand outweighs supply of children and be open to the involvement of organised criminal organisations.

While the child may be issued with an Australian passport off shore, there are concerns around issuing of Australian birth certificates without the parents being listed. In Victoria, the birth certificate lacks checks and balances to ensure the child has not been abducted from overseas. With registering of adopted children, the adopting parents appear as informants and this is not often the case and can therefore be fraudulent. Senate Recommendations 13.12.33 states that all jurisdictions adopt integrated birth certificates where the parents are listed and the adopting parents. This shows equal status to the other birth certificate and shows a clear pathway for the child to follow in the future contacting their family.

The Government has a responsibility to monitoring all intercountry adoptions to protect the rights of the child consistent with the UN Conventions and onshore processing procedures. By children being granted passports outside of Australia, processes should be put into place to ensure that children have not been stolen from families; removed under false pretences or part of criminal activities involving baby farming. The Hague Convention approved by Australia in 1998 has objectives to eliminate child trafficking and we must adopt practices consistent to this convention to ensure the safe care and protection of children. Once children enter Australia, Government also need to ensure monitoring is undertaken to ensure that children remain safe and already the Australian child protection system is struggling with children already living in Australia.

2. The Child and their Family of Origin

Under Article 7, the UN Convention on the Rights of the Child states that children have *“the right to know and, as far as possible know, as far as possible, to be cared for by their parents.”* It is acknowledged that intercountry adoption is not foreign aid, but efforts should be made wherever possible for children remain in their family of origin, rather than being removed to Australia. Intercountry adoption can provide a child with opportunities and benefits, but the family of origin is acknowledged as the preferred family arrangement. While some children may still have a parent or extended family, the decision to place a child for adoption comes at a cost. The loss of a child is often regrettable and is an extremely difficult decision. Such decisions can have long term impacts on the family and the child. The effective management of this situation is extremely important in the intercountry adoption process.

Article 8 states that “*Government should respect children’s rights to a name, nationality and family ties.*” These articles again highlight the importance of the connection of the child to their family of origin and raises serious points about the need for any adoption process to have good information about the family of origin, their medical history and whether any family members are still alive including parent/s and extended families. In many adoption situations, at least one parent may be still alive and it may be through poverty and other difficulties that the family may not be able to care for the child. Consideration should be given to how children can develop an understanding of their family of origin and be able to contact them if they choose to do so in the future. The adoption should not be shrouded secrecy and contact should be encouraged where ever possible and appropriate between the family of origin and the person/s adopting the child.

Under Article 9, the Preservation of identity of a child identifies that children have the right to an identity and an official record of who they are. In fast tracking adoptions, this aspect needs to be an important consideration for the placement of children and the parents and extended families rights. These rights are not automatically extinguished when a child is adopted. Minority or Indigenous children also have the rights to practice their own culture, language and religion which may become difficult with inter-country adoptions through distance and differences in the cultural context the child is going to.

Long Term Adoption Impacts

We have a long history of adoption in Australia where the outcomes have not been a positive experience for all children. Where there is minimal focus on the rights of the child there may be significant long lasting impacts on the child. There should be monitoring of adopted children to reduce adoptive placements breakdown and reports to child protection across Australia. The fast adoption process may increase the numbers of intercountry adoptions and Government resources may need to increase to monitor the arrangements once the child is in Australia.

References:

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<http://www.abc.net.au/7.30/content/2013/s3695695.htm>

Fronek, Patricia, Griffith University, Changes to Intercountry Adoption Must Put Children’s Needs First:
<http://theconversation.com/changes-to-intercountry-adoption-must-put-childrens-needs-first>

HCCH, Convention on Protection of Children & Cooperation in respect of Intercountry Adoption.

UNICEF Fact Sheet: A Summary of the Rights under the Convention on the Rights of the Child.

(Report prepared by Rosemary Kennedy in conjunction with Origins members)