# 1

Introduction

1.1   This is a report about the policies and practices governing overseas adoption (hereafter referred to as intercountry adoption) in Australia. It quickly became apparent to the committee during its inquiry, however, that attitudes to domestic adoption have coloured state and territory approaches to intercountry adoption. Any assessment of intercountry adoptions, therefore, needs to take account of the attitudes to local adoptions.

1.2   Adoption in Australia, both intercountry and domestic, has undergone considerable change over the last 35 years. Firstly, the total number of adoptions per annum has declined to some five percent of the number in the early 1970s, as figure 1.1 overleaf demonstrates.

1.3   This decline can be attributed to shifts in public policy and social attitudes[1]:

- general practitioners commenced prescribing the contraceptive pill to young unmarried women, whereas before it had been restricted to married women;

- family planning centres and sex education classes helped young women avoid unwanted pregnancies;

- the number of women in the workforce increased, as did the number of childcare places, which gave women more economic independence;

- an anti-adoption culture developed resulting in thousands of children being placed in foster and other types of out-of-home care.

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1   See Australian Bureau of Statistics *Australian Social Trends 1998* reproduced in Healey J (ed) *Adoption* Issues in Society, (1999) vol 110 The Spinney Press, pp 1-4.

- other long term legal orders, such as permanent care orders, now tend to be used instead of adoption. These orders transfer guardianship and custody but the biological parents continue to be the child's legal parents.

- various changes to legislation have reduced the scope for adoptions by relatives, including by step parents;

- the supporting mothers' benefit was introduced in 1973, increasing the likelihood that single mothers would have sufficient resources to raise their children themselves; and

- Victoria and New South Wales relaxed the conditions under which a pregnancy could be terminated in 1969 and 1972 respectively

Figure 1.1:   Total adoptions in Australia, 1968-69 to 2003-04
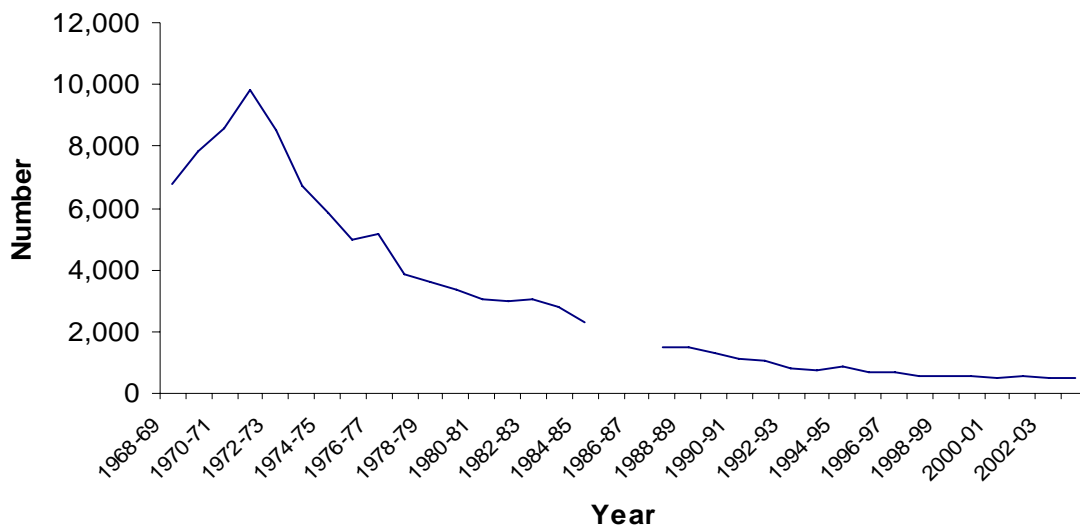
Source: Australian Institute of Health and Welfare, sub 135, p 2. Data not collected for 1985-86 and 1986-87.

- The stigma associated with forced adoption practices in the past leading to 'the stolen generation' (for both indigenous and non indigenous mothers and children);

- The growth of, and improvement in, assisted reproductive technologies has permitted many couples to conceive a child naturally, hence reducing the 'demand' for adoption. These technologies commenced in Australia in 1979 and in 2002 they resulted in 6,816 live born babies;[2]

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2   Bryant J, Sullivan E and Dean J, *Assisted reproductive technology in Australia and New Zealand 2002* (2004), Australian Institute of Health and Welfare, p 36.

1.4   Professional attitudes to parenting have changed. There is now an entrenched attitude within state and territory welfare departments that it is in the child's best interests to be reared by a biological parent. Potentially relinquishing mothers are likely to be counselled against giving up their child for adoption.[3]

Attitudes to Adoption in Australia

Past local adoption practices

1.5   The committee received a significant number of submissions from Australian women who had relinquished their own children for adoption between the 1950s and 1970s.[4] These submissions reported that, during this time, single mothers were forced to give up their children for adoption against their will. These mothers found the process distressing and, by today's standards, many were treated inhumanely. As one submission recounted:

> We were taken to St. Joseph's Foundling Home, in Broadmeadows. I remember entering a door clutching my baby to my breast, crying profusely. A nun came out of nowhere and ripped my son from my arms and turned and ran from the room. I was totally shattered. I started screaming for his return. I yelled that I did not want him to be adopted. I was bereft. Another nun pushed me into a chair at a desk and started pushing paper after paper under my nose telling me to sign here and here. I do not know what I signed for I could not see through my tears. I was hysterical and screaming. I believe that because I would not leave the premises I was told I could visit my son until the 30-day revocation period was up. I do not remember getting home or much of the next few days, but I did return to this evil place several times to see my son to hold and love him. No one spoke to me. All heads turned away.[5]

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3   Boss P, *Adoption Australia – A Comparative Study of Australian Adoption Legislation and Policy* (1992) The National Children's Bureau of Australia Inc, p 11.

4   For example, Kinghorn L, sub 195, Origins Victoria Inc, sub 197, Association Representing Mothers Separated from their Children by Adoption (SA) Inc, sub 211.

5   Smith J, sub 185, p 3.

1.6   This past treatment of single mothers was confirmed by the New South
        Wales Parliament in its review into adoption practices in 2000. The review
        report summarises its findings as:

> Many past adoption practices have entrenched a pattern of
> disadvantage and suffering for many parents, mostly mothers,
> who relinquished a child for adoption particularly in the 1950s,
> 1960s and 1970s…The report is an acknowledgment that many
> mothers who gave up their children to adoption were denied their
> rights, and did not uncaringly give away their children.[6]

1.7   The social attitudes that existed before the supporting mothers benefit, the
        wider use of the contraceptive pill did not accept single mothers:

> The chances of a woman keeping her child … were almost
> invariably dependent on the support of either the father of the
> baby, or her family. Such support flew in the face of strongly held
> social attitudes regarding ex-nuptial relationships.
>
> A pregnancy and its outcome, a baby, were the external evidence
> of socially condemned behaviour. Many families were deeply
> ashamed. Their daughters were sent interstate, from country
> towns to the large, anonymous cities and even overseas to hide
> 'the shame'.[7]

1.8   One single mother, upon regaining consciousness after childbirth, was
        told by her doctor that, 'society will forgive one mistake,' whereupon the
        doctor left the room.[8]

1.9   The committee sincerely regrets the difficulties that these mothers had to
        endure, which, for many of them, has heavily impacted on their lives.

Prejudice against local adoption

1.10   The committee is concerned that, due to past practices, adoption generally
        has become the poor relation of child protection in Australia. In New
        South Wales and Queensland, adoption is either neglected or some
        departmental officers are openly hostile to it. The Australian Council for
        Adoption provided evidence to the Committee of the proceedings at a
        general adoption conference in Sydney in 1994:

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6   NSW Standing Committee on Social Issues, *Releasing the Past – Adoption Practices 1950-1998 –
     Final Report* (2000) NSW Legislative Council, p xiv (exhibit 49).

7   McDonald M, Marshall A, 'How society made adoption the only choice for some,' *The Sydney
     Morning Herald*, 14 April 1998, p 19 reproduced in Healey J (ed) *Adoption*, p 18.

8   Edwards E, sub 196, p 3.

> ... anyone who spoke up in favour of adoption was hissed and booed. Adoptive parents were called criminals and kidnappers… . It was a disgrace. Anyone who was giving a workshop which was supportive of adoption was harassed throughout that workshop. Some people were reduced to tears. These people were being actively supported by officers of state departments at this conference.[9]

1.11   The Council also stated that pro-adoption groups do not receive public funding, whereas groups objecting to adoption do. Further, parents who may wish to adopt out a child are referred for counselling to groups whose stated aims are the abolition of adoption.[10]

1.12   The troubling aspect of this approach is that the past social attitudes and practices that brought it about are no more:

- birth mothers receive counselling before they are permitted to put up their child for adoption;

- there is now a range of financial benefits to support single mothers;

- being a single parent of itself is no longer stigmatised; and

- adoption is no longer clouded in secrecy. Depending on the circumstances, a mother who gives up her child can continue to have contact or have contact in later years.

1.13   Further, independent research has demonstrated that adopting a child into a family with a high income and good education is likely to have large, positive effects on that child's tertiary education and its marital status. There will also be modest positive effects on its wages. [11] Given that most adoptive parents have a middle class, professional background, [12] adoption for a child at risk is likely to present many positive benefits.

1.14   As discussed later in this report, parents overseas who put up their children for intercountry adoption are required to undergo counselling.

1.15   Further, if children overseas are abandoned or put up for adoption for social reasons, some of which may reflect conditions in Australia one or two generations ago, it would not be in the interests of the child to refuse

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9   Law D, transcript, 21 July 2005, p 25.

10   Law D, transcript, 21 July 2005, pp 25, 28.

11   Sacerdote B, 'The Nature and Nurture of Economic Outcomes,' National Bureau of Economic Research, Working Paper 7949, p 3, viewed on 6 November 2005 at http://www.nber.org/papers/w7949.

12   Boulton M and M, sub 60, p 3.

to provide them with a family environment in Australia if they cannot be adopted in their home country.

1.16   Similarly, it would not be in the interests of the child to not place children from overseas in families in Australia when no family is available to them in their country of origin for economic reasons.

1.17   Unfortunately for children, state and territory welfare departments have a history of swinging between extremes. Departmental preferences tend to:

> … change often and swing between extreme positions (e.g. a policy of removing children at risk to one of family preservation). As well as being politically (and media) sensitive, these swings often follow the latest research leads or interests in an attempt to improve the theoretical basis for practice. This problem is associated with the recency of the field of protective services and thus the poor knowledge base, the size of the problems that protective services need to address, the external pressure placed on many departments through the media and public scrutiny and the deficiency in government resources…[13]

1.18   The history of adoption is an example of these swings. Between the 1950s and 1970s, adoption was used in many cases automatically. Nowadays, it is either not supported or actively discouraged.

1.19   The committee considers adoption to be a legitimate way of forming or adding to a family. The committee also considers adoption to be a valuable way of saving children at risk in their birth country.

Prejudice against intercountry adoption

1.20   A common theme in the evidence to the inquiry is that there is a general lack of support for adoption in government departments in Australia. This also extends to support for intercountry adoptions.[14] This difference of opinion has existed since at least the early 1990s. Emeritus Professor Peter Boss of Monash University has reported:

> …intercountry adoption has aroused strong feelings, both for and against, in the community. The protagonists are the many prospective adopters who wait patiently, or otherwise, for years

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13   Tomison A, Stanley J, *Strategic Directions in Child Protection: Informing policy and practice* (2001) unpublished report for the South Australian Department of Human Services, p 129, viewed on 4 October 2005 at http://www.aifs.gov.au/nch/pubs/keyreports.html.

14   For example, see Rosenwald T, sub 189, p 5, Pirani C, D and A, sub 121 p 6, EurAdopt Australia, sub 137, p 6, and Blanter K, sub 38, p 3.

for placement of a child. The opponents are largely the professional groups involved in adoption, such as social workers and psychologists.[15]

1.21 The committee received evidence that this general approach exists in most state and territory welfare department in Australia. This attitude was typically expressed as a lack of positive action by governments, rather than outright opposition. Some of the comments were:

- an 'underlying reluctance' in New South Wales;[16]

- a lack of communication and understanding of adoptive parents in Victoria;[17]

- recurrence of the same problems for the last 20 years in Queensland;[18] and

- no action to promote new programs with countries of origin.[19]

1.22 One of the reasons for this inaction is that state and territory welfare departments focus their resources on children with problems and dysfunctional families within Australia. When questioned about fee increases for intercountry adoptions, a previous Minister for Community Services in New South Wales replied:

> The role of the Government is to balance all the priorities associated with services for vulnerable children and families in New South Wales, statutory child protection intervention services, support for families with a child who has a disability, and health services, housing and education.[20]

1.23 In a similar vein, the New South Wales Department of Community Services told the committee:

> We wish to return to a situation where the primary focus of our social work resources is on assessing and supporting the 105,000

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15 Boss P, *Adoption Australia*, p 13.

16 Australians Adopting European Children, sub 16, p19.

17 Wilson J, Intercountry Adoption Resource Network Australia Inc, transcript, 3 August 2005, p 20 and Greenough F, p 32.

18 Finkel S, Australian Korean Friendship Group Queensland Inc, transcript, 21 July 2005, p 7.

19 Byerley S, International Adoptive Families of Queensland, transcript, 21 July 2005, p 82.

20 Hon Carmel Tebbutt MLC, 'Intercountry Adoption Fees' *NSW Legislative Council Hansard*, viewed on 1 September 2004 at http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LC20040603038.

children who are the subject of 216,000 risk of harm reports every
year in New South Wales. That is what we need to focus on....[21]

1.24   The committee also collected a few examples of outright opposition to
intercountry adoption:

■ a departmental representative told potential adoptive parents in
Western Australia that they should donate money to overseas countries
instead of adopting[22]; and

■ a departmental representative told potential adoptive parents in New
South Wales that they should be fostering instead.[23]

1.25   The committee concludes, on the basis of evidence given, that there is a
general attitude against intercountry adoption in most jurisdictions, which
ranges from indifference or lack of support to hostility.

1.26   On a more positive note, the adoption community has perceived changes
recently within the relevant government agencies in Tasmania and the
Australian Capital Territory.

1.27   The President of Australian African Children's Aid and Support Inc, who
resides in Tasmania, advised the committee that the Tasmanian
Government's readiness to support adoptions has been due to the
appointment of the current manager, Una Hobday. Previously, the
Tasmanian authorities were less helpful.[24]

1.28   At a public hearing in Canberra, Adoptive Families of the ACT Inc stated:

My wife and I had a five-year pregnancy and we went through the
system in the late 1990s. Even then, in the ACT, the system was
rather negative. The workers in there treated us negatively. We
almost got the feeling that what we were doing was wrong and
that we should not be doing it. A lot of that attitude has changed
now, and I think they are pro-adoption. They are keen to get the
job done. They are more effective.[25]

1.29   This evidence is consistent with adoption rates in Australia. Chapter five
will demonstrate that the ACT, South Australia and Tasmania have the
highest per capita rates of adoption in the country. These rates are also
consistent with adoption rates in most other western countries. The

21   NSW Department of Community Services, transcript, 12 October 2005, p 4.

22   Fratel S, sub 64, p 1.

23   Ellem J, transcript, 23 September 2005, p 4.

24   Sherrin E, transcript, 16 September 2005, pp 30-31.

25   Cornhill R, transcript, 9 May 2005, pp27-28.

committee congratulates these three jurisdictions for taking the lead ahead of New South Wales, Victoria and Queensland. This emphasises the importance of leadership attitude and beliefs in adoption as a legitimate way to form or add to families. Clearly in the ACT and Tasmania, new leadership with changed attitude is making a difference. In South Australia these outcomes were achieved with the resources of a non-government organisation buttressing the Central Agency. The Committee will watch with interest how the Central Agency performs without the experience and resources of the non-government organisation.

Intimidation of the intercountry adoption community

1.30   The committee received a number of claims of a power imbalance between adoption applicants and the departments, which included verbal abuse and threats.[26] Lisa Wilson and John Turner explained how adoptive parents feel:

> It is not necessarily the case in the ACT, but in other jurisdictions people have had bad experiences. It is also part and parcel of the intrusive process. You do feel to a certain extent that you are being judged and you want to put your best front forward. As I say, it is a real or perceived power differential.
>
> You do not want to do anything that would result in a no answer. You want a family and you will do just about anything to get that family. The power rests with the authorities. You upset the authorities and you get a no answer. In some jurisdictions, as you have pointed out, there is no recourse to appeal that decision.[27]

1.31   The committee received evidence of other disturbing instances, for example:

> In 1998, after problems with adoption processing were raised in the public arena, a client satisfaction survey was distributed in NSW. At the time, many applicants stated that they did not want to share their experience because they feared negative ramifications. The entirety of the final report was not released publicly because it was thought that families could be identified however, it was given to social workers within the NSW Adoptions Branch and individuals were recognized by social

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26   Lisa, Andy, community statements, transcript, 3 August 2005, pp 9-10, Telfer J, International Adoptive Families of Queensland, transcript, 21 July 2005, p 94, and Euradopt Australia, sub 137, p 2.

27   Wilson L and Turner J, transcript, 17 August 2005, p 27.

workers and applicants have reported to FCC that they were made
to account for their statements.[28]

1.32   One Victorian couple, after learning of their allocation, wished to travel to
       the orphanage to look after the child because of an outbreak of life-
       threatening disease there. Normally, parents do not travel at this stage but
       wait for the visa to be issued after the health checks. Given some couples
       from other states were travelling early due to these circumstances, this
       couple also wished to do so:

>   We made an appointment, out of courtesy to discuss our reasoning
>   with the Acting Head of ICAS. When we told her of our plans she
>   became enraged and threatened that if we continued ahead with
>   our plans, she would immediately call an inquiry into people
>   travelling early and effectively temporarily close the program.[29]

1.33   The committee has had its own experience of this power imbalance.
       Several witnesses have withdrawn from public hearings due to fear that
       giving testimony may delay or jeopardise their application.

1.34   Another example of how seriously applicants view this power imbalance
       is that only two cases were reported to the committee of people taking
       their complaints to the Ombudsman.[30] This officer provides an
       established, free service to members of the public who believe they have
       been subject to poor administration.

1.35   The committee regards the misuse of this power imbalance as totally
       unacceptable and will examine ways of providing accountability.

Discussion

1.36   Both adoptive parents and departmental officials claim that they are acting
       in 'the best interests' of children. The term seems to be used as a mantra by
       bureaucracy to justify the dominant anti adoption culture.

1.37   Adoptive parents wish to give a family environment to the children
       overseas who have been abandoned or put up for adoption. In many
       cases, these children have a low life expectancy, remain institutionalised
       or live on the street. Some would die before reaching adulthood or live
       with significant hardships if it were not for intercountry adoption. The
       chances of a successful adoption are significantly increased by completing

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28   Families with Children from China-Australia, sub 86, p 25.
29   Name suppressed, sub 109, p 2.
30   Leckenby K, sub 2, p 1, Cornhill R and N, sub 33, p 8.

the adoption early in a child's life. The committee heard evidence that many children overseas would like to be adopted by Australian families.[31]

1.38   State and territory welfare departments, however, have a gatekeeper role. They must ensure that the child is legitimately available for adoption and that the child has not been procured for financial gain (see Hague Convention requirements in chapter 2 below). They must also ensure that adoption within the child's country of origin has already been pursued and that the adoptive parents will properly care for the children entrusted to them.

1.39   The effective management of intercountry adoption involves balancing these two demands. The committee is of the view, however, that this balance is not being properly maintained in Australia. Although there generally appears to be high levels of probity, Australia's adoption rate is low and the weight of evidence of delays and hostility faced by the adoption community is too great to ignore.

1.40   The National Report for Australia, presented by an officer of the Commonwealth Attorney-General's Department to a comparative law conference in Paris in 2003, comes to the same conclusion:

> The good practice features of the Australian system can and do give confidence to the adoption authorities of origin countries that their children will be cared for in Australia. Origin countries know that Australian adoptive parents have been carefully selected and well prepared for the adoption. Improper financial gain has not played a part in the process.
>
> The good practice features also enable Australia to comply at a high level with the objects and obligations of the 1993 Hague Convention, in putting the interests of children first and preventing the abduction and sale of, or traffic in children, at least by Australian parents...
>
> … **the highly centralised nature of the adoption process within government departments can sometimes limit its effectiveness** [emphasis added]. Intercountry adoption does not operate on a full cost-recovery basis, and it requires state and territory governments to subsidise its costs. But adoption authorities are not always given priority in the allocation of government resources. Parents in some regions complain of delays in processing their applications…

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31   Bottrell C, T and E, sub 30, p 4.

> **This structure may explain in part why an expected increase in
> intercountry adoptions following Australia's ratification of the
> Hague Convention has not happened in the short term:
> Australian adoption authorities still do not have sufficient
> resources to develop adoption arrangements with new Hague
> Convention countries** [emphasis added]. [32]

1.41   Although state and territory resources in the family and community
        service field may be stretched, it is not an adequate response given that
        Australia's international obligations require us to expedite these adoptions
        (see chapter two below).

1.42   State and territory departmental officials have sought to shift some of the
        blame for this state of affairs by claiming that adoption applicants have no
        right to complain. As one official from New South Wales is reported as
        saying:

> Parents have an agenda. They are desperate people and they
> believe it is their right to be able to do this, and it is not. No one
> has the right to adopt a child. You can have the altruistic view that
> we are a global society and we should be looking after all our
> children, and that is great. And we do it successfully, but we also
> make sure we do it damned right.[33]

1.43   Statements such as these effectively mean that no-one can legitimately
        criticise state and territory departmental officials in this area. Potential
        adoptive parents cannot complain because they are 'desperate'. Further,
        they suffer a power imbalance with the officials and are even subject to
        intimidation. Potential adoptees cannot complain because they are
        generally less than five years old and overseas.

1.44   There appears to have been few occasions where state and territory
        government officials have been brought to account in the field of
        intercountry adoption. The committee is pleased to take on this task.

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32   Degeling J, *International Adoption in Comparative Law, National Report for Australia*, Association
     Louis Chatin Pour la Defense des Droits de L'Enfant, Colloque sur L'Adoption Internationale,
     En Droit Compare, Paris, le 25-26 avril 2003, pp 30-32.

33   Moore C, quoted in Bagnall D, 'The Adoption Twist,' *The Bulletin*, 16 April 2002, p 24.
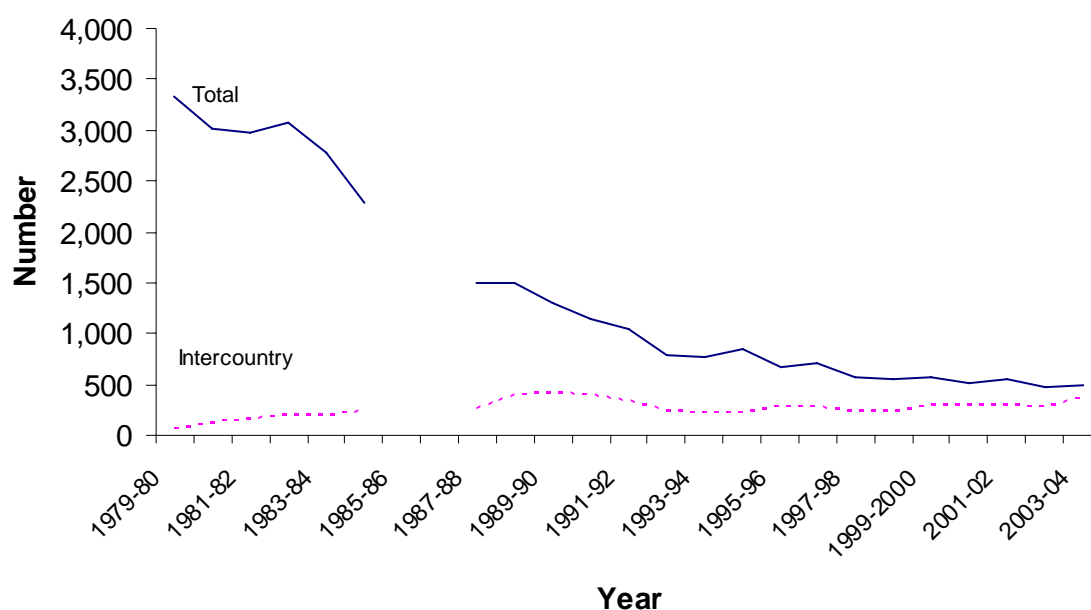
Intercountry Adoption – a snapshot

Intercountry adoption in Australia

1.45 Intercountry adoptions began in Australia at the close of the Vietnam War. During 1974, a number of groups and individuals commenced arranging adoptions into Australia of Vietnamese children due to fears of civil collapse. In 1975, the Vietnamese Government permitted a number of special purpose flights, carrying Vietnamese infants for overseas adoption, to leave that country. 292 children arrived in Australia as part of Operation Babylift.[34]

1.46 Comprehensive statistics on intercountry adoption were first published for 1979-80. Figure 1.2 overleaf illustrates the gradual growth in intercountry adoption in Australia such that in 2003-04 it represented 74% of total adoptions. This growth has coincided with the decline in Australia of local children available for adoption.

1.47 The total number of intercountry adoptions has remained largely static for the last 15 years at around 300–400 adoptions per year. There was, however, an increase of 92 adoptions between 2002-03 and 2003-04. This is largely attributable to an increase in adoptions from China, which rose from 46 to 112 in this period.[35]

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34 Harvey I, 'Adoption of Vietnamese Children: An Australian Study' *Australian Journal of Social Issues* (1983) vol 18, p 57.
35 Australian Institute of Health and Welfare, sub 135, p 6.

Figure 1.2:   Total and intercountry adoptions in Australia, 1979-80 to 2003-04[36]

Intercountry adoption overseas

1.48   Outside Australia, intercountry adoption commenced in Europe, Japan and China after World War II. Unites States troops came into contact with orphaned children and families who decided they could not support their children in the post-war environment. Troops were also responsible for increased numbers of illegitimate children in those countries.

1.49   The US presence in the Korean War later led to a high number of adoptions out of that country as well. Between 1953 and 1981, over 38,000 Korean children were adopted by American families.[37]

1.50   Table 1.1 on the next page shows current levels of international adoptions for Australia and 13 other western nations.

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36   Australian Institute of Health and Welfare, sub 135, p 6 and Armstrong A, Slaytor P (eds) The Colour of Difference – Journeys in transracial adoption (2001) The Federation Press, p 189. Data not collected for 1985-86 and 1986-87.

37   Van Loon J, 'Report on Intercountry Adoption' Hague Conference on Private International Law, *Proceedings of the Seventeenth Session, 10 to 29 May 1993, Tome II, Adoption – cooperation*, pp 37-39.

Table 1.1:   Per capita rates of intercountry adoptions in selected western countries for 2004

Country	Adoptions	Population	Population per Adoption
Norway	667	4,574,560	6,858
Sweden	1,109	8,878,085	8,005
Switzerland*	722	7,318,638	10,137
Spain*	3,947	40,217,413	10,189
Denmark	528	5,413,392	10,253
USA	22,884	293,027,571	12,805
France	4,079	60,424,213	14,813
Netherlands	1,072	16,318,199	15,222
Canada	1,955	32,507,874	16,628
Finland	310	5,214,512	16,821
Italy	3,400	58,057,477	17,076
Germany*	1,720	82,398,326	47,906
Australia*	370	20,008,700	54,078
UK	326	60,270,708	184,879

Source: See Appendix E. An asterisk denotes 2003 data. Australian data is for 2003-04.

1.51   The main conclusion from table 1.1 is that Australia has a much lower intercountry adoption rate than other comparable countries. Only Germany has a similar rate to Australia and only the United Kingdom has a lower rate. The implications of this table will be discussed throughout the report, in particular in the section in this chapter on attitudes to adoption.

Are intercountry adoptions successful?

1.52   The research has been summarised by Professor Barbara Tizard:

> …whilst the evidence is patchy and incomplete, it does suggest that in 75-80% of intercountry adoptions the children and adolescents function well, with no more behavioural and educational problems at home and at school than other children, and that they have close and mutually satisfying relationships with their parents. Family and educational difficulties are most likely to occur when children are adopted at a relatively late age. There is reason to believe that when these difficulties arise, they do so as a result of their early experiences, or their situation as adopted children, rather than from the experience of intercountry

adoption. As in other settings, there is some evidence that boys are especially vulnerable.[38]

1.53   Research also suggests that even where an adoption has not been entirely successful, the children involved see the experience as preferable to life in an institution. [39] In evidence, some members of the Intercountry Adoptee Support Network discussed the challenges they faced given they were amongst the earlier groups of intercountry adoptees. When asked whether they felt good about being adopted into a family, they replied:

> Yes. We can only speak for ourselves, but I think we feel good about it. Our goal now is to make the journey a little easier for the future generations.[40]

1.54   Measured by separations (where an adoption fails and the child must be placed in a new home), adoptions generally are successful. Separation rates are 10%-20% for older, special needs children and 1%-3% for early age adoptions.[41] During the inquiry, adoptive parents reported similarly low rates of separations for intercountry adoptions.[42]

1.55   In the case of intercountry adoptees, many of the institutions overseas can only provide a basic level of care. The President of Australian African Children's Aid and Support Inc advised the committee of circumstances in a particular Ethiopian orphanage:

> There was a room about this size full of cots — babies just crying, some of them asleep. I went over to a particular one in a corner, and I started stroking her back and she stopped crying. One of the nuns there was able to speak English, and she said, 'She stopped just because of the touch. They are never touched; we do not have enough staff to touch them.' That sort of thing really gets to you.[43]

1.56   This lack of resources means that orphaned and abandoned children in many countries are unlikely to lead productive lives. It also means that many children adopted into Australia suffer from developmental delays that their Australian parents work hard to overcome:

> I can offer personal evidence of the best interests of the child in terms of my own daughter, who was adopted from China at

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38   Tizard B, 'Intercountry Adoption: A Review of the Evidence,' *Journal of Child Psychology and Psychiatry and Allied Disciplines* (1991) vol 32, pp 754-755.

39   Rowe J, 'Perspectives on Adoption,' p 9.

40   Matthews A, transcript, 23 September 2005, p 20.

41   Bath H, 'Rights and realities in the permanency debate,' *Children Australia* (2000) vol 25, p 13.

42   Telfer J, transcript, 21 July 2005, p 86 and Ross L, sub 246, p 2.

43   Sherrin E, transcript, 16 September 2005, p 29.

> 20 months of age. Sometimes you do not find things out until
> years later, as we are now with our daughter, who is very healthy
> at 6½. We found out that it was because she was kept in a cot for
> the first 20 months of her life that she could only pull to stand
> when she first came into our lives. She learnt to crawl over three
> days in a hotel room and then it took another six months before
> she could walk unaided. That is way outside the average, normal,
> healthy development for a child. You do not see the implications
> of that until your child becomes much older and her teachers are
> wondering why the child has no sense of coordination in their
> gross motor skills or their fine motor skills.[44]

1.57   In her personal submission, a mother enclosed photographs of her
        daughter from 2002 and 2004. The daughter was adopted with an injured
        hand that was deformed through constant contractions. The photographs
        demonstrate that the hand has largely recovered. The submission advises
        this occurred through splinting and normal use. Along the way, the child
        has also learnt how to run and jump, and to recognise the signals that her
        body sends her, such as when she is hungry. She has also learnt that she
        can ask for food and that her parents will meet these needs.[45]

1.58   Sometimes the opportunity to be adopted can be the difference between
        life and death. A parent who adopted two boys from Ethiopia, stated in
        evidence:

> Our eldest son is Tamru. Both our sons were pretty sick, with
> malnutrition and various things, when we got them into Australia
> and the doctors here said Tamru would not have lasted another six
> months. Yet these two are both now very lively, very productive
> Queenslanders. Tamru is in the district touch football match today.
> Ironically, as an Ethiopian, he is involved in Queensland cross-
> country running—this is a child who they said would not have
> survived another six months.[46]

1.59   The committee understands that many abandoned and orphaned children
        overseas face very poor conditions. For example, the committee received
        evidence of what some children in Kenya must deal with:

> Many of those that are abandoned are left in paddocks, in the
> bush, in rubbish dumps, down pit latrines, in gutters, or near wild
> animals. Many die of exposure, are eaten by mammals, rodents or

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44   Janet, community statements, transcript, 3 August 2005, p 11.

45   Gribble K, sub 83, pp 7-8.

46   Leckenby K, transcript, 21 July 2004, p 71.

> insects, or die from deliberate harm by human hand. Some are left in hospitals, or are left as orphans when their parents die of poverty, disease or the AIDS pandemic. Many survive and become street-children in the major towns and cities. It is estimated that Kenya now has over 2 million street children. Most street children survive by begging, stealing or through child prostitution. They are under-nourished, un-educated, and survive from day to day as best they can. Many are addicted to glue or petrol-sniffing.[47]

1.60   Research, however, shows that children who suffer severe deprivation in poor quality institutions often show remarkable recovery following an intercountry adoption.[48]

1.61   The committee received evidence that adoptees are aware of the benefits of their placements:

> I am thankful to be here because when I went back a couple of years ago to Ethiopia I saw all the poverty over there. It opened my eyes. I am grateful to have an education, and that I am healthy and I can grow up, because over there the life expectancy for women is—only about 38… I know that here I can live a healthy and prosperous life, so I am grateful for that.[49]

Success factors

1.62   The Australian Council for Adoption advised the committee that the earlier children are adopted, the greater the chance they will bond to their parents and the greater the chance of success.[50] Children are remarkably resilient and can rebound from significant disadvantage, but early placement is to their benefit.[51]

1.63   Associate Professor Victor Groza has listed a number of other factors important to making adoptions successful:

- families need strong informal support networks such as neighbours, friends and other adoptive families;

- families should be able to access 'appropriate, easily accessible and affordable social services';

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47   Potter M and D, sub 27, pp 2-3.

48   Rutter M, 'Children in Substitute Care: Some Conceptual Considerations and Research Implications,' *Children and Youth Services Review* (2000) vol 22, p 693.

49   Amee, community statements, transcript, 16 September 2005, p 36.

50   Australian Council for Adoption, sub 56, p 3 and Law D, transcript, 21 July 2005, p 27.

51   Rowe J, 'Perspectives on Adoption,' p 10.

- parents need to be flexible in their expectations of the child and change their expectations according to the child's abilities; and

- parents need to be patient and let the child develop at their own pace.[52]

Racism and ethnic identity

1.64 If, due to economic or social circumstances, an abandoned or orphaned child cannot be adopted within their country, an intercountry adoption is well described as being in the best interest of the child.

1.65 Most intercountry adoptees brought into Australia come from either Asia or Africa. They are different in appearance to the Europeans from whom most Australians are descended. This raises the question of the extent to which these adoptees are subject to racism, particularly in the 1970s and 1980s when the first significant numbers of international adoptees arrived in Australia.

1.66 Further, international adoptees need to develop their own ethnic identity to support themselves, blending their upbringing, appearance and country of origin. [53] As Groza noted:

> A strong sense of cultural identity helps children better navigate the majority American culture. A strong sense of identity affects self esteem; self esteem and attachment affect each other. When a child lives in a home where they are obviously different from those around them, we cannot negate this difference. The difference must be acknowledged and celebrated so that it does not negatively affect the child's sense of self. If there is no celebration and acknowledgement of the differences, [the] child may feel that they are unacceptable or interpret it as a sign of rejection.[54]

1.67 The Australian Korean Friendship Group Queensland Inc told the committee of the story of a young man in the United States who had been adopted from Korea as a baby. When he travelled back to Korea to meet his birth mother, he was very frustrated that he had not been exposed to the Korean culture or language. He had many things to say, but no way of communicating.[55]

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52 Martin A, *Successful Adoptions,* viewed on 1 June 2005 at http://www.comeunity.com/adoption/Groza.html.

53 Tizard B, 'Intercountry Adoption: A Review of the Evidence,' p 755.

54 Martin A, *Successful Adoptions.*

55 Finkel S, transcript, 21 July 2005, p 14.

1.68   In 2001, the Federation Press published *The Colour of Difference*, a moving collection of interviews and stories from Australian intercountry adoptees. Olivia, who was adopted from Fiji, recounts:

> I don't feel naturally Fijian and I don't feel at home there. I returned to Fiji for six months when I finished high school, in an effort to get to know my family. As soon as I stepped off the plane I was aware of how different I really was. I asked Mary [my birth mother] about this, her response was fairly definite, 'It is in the way you walk, the way you look, and the way you look at people…'. She went on to describe basically every external behavioural trait I had.[56]

1.69   Olivia, however, describes how she is establishing an identity for herself:

> Now I am happy to be considered or recognised as Fijian, knowing at the same time I am inherently Australian. I am proud of both these cultural elements – my Fijian appearance and my Australian identity. Australia has given me many opportunities as an individual, but Fiji is where I am from and where I was born – it is now a matter of finding a balance between the two.[57]

1.70   The committee is aware that intercountry adoptees in Australia who are now adults have faced significant challenges. For example, those adopted in the 1970s and 1980s in particular and raised in regional Australia often faced racism.[58] They also found it more difficult to integrate their identity than intercountry adoptees who grew up in multi-cultural cities like Sydney.[59]

1.71   Australian adoption groups and departments are much more conscious now of the need to help adoptees reconcile their different cultural backgrounds. For example, one state government adoption website states, 'it is important for a child to be raised in an environment that promotes the child's cultural identity'.[60] The Australian Korean Friendship Group Queensland Inc advised the committee about International Day in Brisbane:

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56   Armstrong S, Slaytor P (eds), *The Colour of Difference – Journeys in Transracial Adoption* (2001) The Federation Press, p 165.

57   Armstrong S, Slaytor P (eds), *The Colour of Difference – Journeys in Transracial Adoption*, p 167.

58   Warner C, Beveridge L, Matthews A, transcript, 23 September 2005, pp 10, 11, 13.

59   Warner C, transcript, 23 September 2005, p 14.

60   Queensland Department of Child Safety, 'Issues to Consider,' viewed on 30 September 2005 at http://www.childsafety.qld.gov.au/adoption/overseas/issues.html.

> …we bring all the children together no matter what country they
> come from. We celebrate their heritage and they dress in their
> national costumes. We do it with the belief that it is a catalyst for
> other parents to participate and get their children involved in their
> culture. We have an opportunity on Sunday, when some older
> adoptees will be speaking about their experiences growing up in
> the last 30 years as intercountry adoptees, of learning the lessons
> that their parents unfortunately did not have the opportunity to
> know about—the importance of cultural identity to a person.[61]

1.72   The Chairman of this committee was honoured to open International Day
        this year on Sunday, 24 July 2005. The event was a great success and the
        children were obviously very proud to wear their traditional clothes in a
        parade. Not only does the event assist recent adoptees, but it also helps
        adoptees who are now adults.[62]

1.73   The committee received evidence of similar cultural gatherings around the
        country. For example, Ethiopian adoptees in Tasmania regularly meet and
        also meet people from the Ethiopian community in that state to learn
        about their heritage.[63]

1.74   The committee is satisfied that adoption practitioners and support groups
        have learnt the lessons from the past about the challenges intercountry
        adoptees face in establishing their cultural identity.

1.75   The committee sees the role of these support groups as an essential part of
        the adoption process and, in chapter five, recommends that they be
        eligible to receive modest funding to assist their activities.

Prevention of child trafficking

1.76   The prevention of child trafficking was one of the main drivers for
        establishing the Hague Convention on Intercountry Adoption in 1993.
        Australia ratified the convention in 1998. This report discusses the
        convention in chapter two.

1.77   The committee found no evidence of child trafficking in Australia during
        the inquiry. If anything, Australian authorities seem alert to the practice.
        In its response to the questionnaire on intercountry adoption distributed
        by The Hague, the Attorney-General's Department argued that donations

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61   Finkel S, transcript, 21 July 2005, p 14.
62   Beveridge L, transcript, 23 September 2005, p 16.
63   Amee, community statements, transcript, 16 September 2005, p 38.

to countries of origin should be transparent, paid after the child has been placed with the family, and cover the legitimate costs of the adoption.[64]

Local Adoption and Child Protection

1.78   The committee heard evidence which showed that attitudes to adoption have not only coloured the official attitudes to intercountry adoption, but also to child protection, fostering and other forms of out-of-home care. Although local adoption, foster care and out-of-home care were not within the committee's terms of reference, these issues were raised with the committee and are discussed in Appendix A.

Overview of the inquiry

Conduct of the inquiry

1.79   House of Representatives Standing Order 215(c) permits the committee to, among other things, make any inquiry it wishes to make into the annual reports of certain specified government departments and authorities. The committee reviewed the 2003-2004 Annual Report of the Australian Institute of Health and Welfare and, on 16 February 2005, resolved to conduct the inquiry into intercountry adoptions.[65] Over the next two months the inquiry was advertised in various media with the formal closing date for submissions being 22 April 2005.

1.80   As word of the inquiry spread – principally through internet mailing list networks – the committee received more and more requests that it accept submissions beyond the closing date. The committee, acceded to the requests and by the mid November 2005 had received over 270 submissions (see Appendix B).

1.81   The committee received many submissions from parents and prospective parents of adopted children that contained personal stories and experiences. In a number of cases, the authors requested that their submission remain confidential, sometimes because they feared

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64   Australia: Response to the 2005 questionnaire, viewed on 7 September 2005 at http://www.hcch.net/upload/adop2005_au.pdf.

65   The Australian Institute of Health and Welfare compiles data from the states and territories to produce the annual Adoptions Australia series. See *Adoptions Australia 2003-2004*.

victimisation by state adoption agencies. Members were sensitive to these concerns and resolved that personal contact details be automatically edited from public versions of all submissions. In addition, the committee agreed to specific requests by individuals or couples that their names as well as contact details or that their entire submission remain confidential.

1.82   The committee held public hearings in Canberra, Sydney, Brisbane, Melbourne, Hobart, Adelaide and Perth between May and October 2005 (see Appendix D). The Committee also took evidence via a telephone conference call with an adoption agency in Taiwan.[66] At the public hearings the committee reserved time for 'community statements' when members of the public could drop in and make short statements in a less structured format. Community statements proved a very successful way for the committee to hear the personal stories of people who had been reluctant or unable to participate in the inquiry's more formal processes.

Structure of the report

1.83   This report comprises five chapters. Chapter one has covered the history and statistics of intercountry adoption. One of the key findings from the chapter is that, following the adoption practices in the 1950s to 1970s, support for adoption in many government departments is generally low at best. These changes are despite the major overhaul to adoption processes which mean that they bear little resemblance to past practices.

1.84   Another key finding of this chapter is that intercountry adoptions can greatly improve outcomes for overseas children that cannot be raised in a family in their home country.

1.85   Chapter two outlines the legal framework for intercountry adoptions. The end product of the adoption process is the adoption order, which legally makes the child in question the son or daughter of the adoptive parent. Intercountry adoptions involve a large number of legal systems, including international treaties, legislation in the country of origin, state and territory adoption laws, visa requirements and more. The chapter explains the chain of legal events that culminate in an adoption order.

1.86   Chapter three covers the first of the committee's explicit terms of reference, namely the inconsistencies between the state and territory approval processes for intercountry adoptions. This chapter includes the eligibility criteria for parents, which was one of the more contentious issues in the inquiry.

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66   Voigtmann P, Christian Salvation Service, transcript, 14 September 2005.

1.87   Chapter four discusses the second of the inquiry's explicit terms of reference, namely the inconsistencies between the benefits and entitlements provided to birth families and adoptive families. These differences not only relate to government payments, but also to citizenship rights and leave for adoptive parents.

1.88   Chapter five covers the remaining issues that come under the committee's general term of reference, which is to better assist Australians who are adopting children from overseas. This discussion includes the role of non-government organisations, the establishment of new programs overseas, media restrictions on adoption and a comparison of the performance of the different states and territories.