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The Chairperson
Standing Committee on Family and Human Services
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Mrs Bishop,

Thank you for the opportunity to provide a submission to the Standing Committee on Family and Human Services' Inquiry into Adoption of Children from Overseas.

Our family was formed in August 2003 with the adoption, from China, of our daughter. We live in Canberra and our adoption was processed via the ACT Adoption Unit, in the ACT Family Services Branch.

We are active in the China adoption community at both ACT and national levels. The adoption community provides both a support network for families and children adopted from China.

The following submission is based on our personal experiences, and from information gathered by us throughout our adoption experience and from discussion/information sharing between adoptive families across Australia. While our submission is extensive it by no means covers all inconsistencies, in process and benefits, that may exist.

Before we comment on the specific terms of reference we would like to make the following two background comments/observations that we believe are relevant information for the Committee in their deliberations.

Willingness of adoptive families to participate in the Inquiry process – an observation

We have to say from the outset that we believe that many people who are currently in the process of adopting may have been put off lodging a submission because of a real or perceived power differential between the families and the departments processing their applications. For many people the chance of them creating a family rests with decisions of a few people in a state agency. People have been concerned that by making comments, that may be viewed as negative, they may suffer either overt or subtle discrimination as a consequence. Even the offer of withholding identity has not been enough to settle a number of people's nerves. We are not singling out any state – this appears to be a common concern expressed by families across the country.

Adoption is as a valid form of family creation

There is no doubt in Australia that adoption has had something of an unfortunate history (young women in the 1950s, 1960s and 1970s being 'coerced or forced' to relinquish children, and the Indigenous 'Stolen Generation). For some people the taint remains. It must be said that Australia has learnt many lessons from these bad experiences. Greater effort is now made in preparing adoptive families for the emotional impacts, both short and long term, that adoption may have on the children and the families – issues regarding attachment, identity, culture, about children wishing to seek out birth family etc.

However, from experiences of some adoptive parents it still seems that there are at least some people within the social work profession, even working in the field of adoption, that do not believe that it is a valid form of family creation. Whether consciously or subconsciously this affects their ability to undertake the work is debatable, however the fact that adoptive parents pick up on this 'vibe' makes for not a pleasant interaction.

Most people would agree that ideally children should be able to remain with their birth family, in their birth culture. Unfortunately for a vast number of children around the world this is just not possible – they are relinquished or abandoned at a rate that the infrastructure of their countries cannot sustain. Adoptive families in Australia do not cause children in other countries to be relinquished. They do give them the opportunity of having a loving family.

The Hague Convention requires efforts to be made within the country of birth for the child to be adopted locally, before the possibility of overseas adoption is raised. Some people have criticised overseas adoption for removing children from their birth culture. The sad reality is that for many of the children the only culture they would experience if they remained would be an 'institutional culture' with a limited life and educational opportunities – to fully participate in and experience of their culture of birth they would have to be in a family setting. In some countries the financial burden of housing the children is something that their society unfortunately cannot afford to bear. Intercountry adoption is the only viable option.

Today, adoptive families with children from overseas or another culture, make every effort to maintain and foster links with the birth culture and language. For instance, our daughter is enrolled in a local childcare centre with a bilingual program (Mandarin/English) – later she will attend Mandarin lessons, we celebrate Chinese festivals with other adoptive families and the local community, our child has Chinese 'godparents' to guide her in the culture, and we plan regular trips back to her country and region of birth.

We also retain strong links with the orphanage from which our daughter was adopted, via the international network of families who have adopted from there also. We continue to raise funds for the children who remain in the orphanage, not because of 'guilt' but a way of giving something back to a place that gave us so much.

Term of Reference 1 - Any inconsistencies between state and territory approval processes for overseas adoptions; and

There are many inconsistencies between state and territory approval processes for overseas adoptions. This is a direct result of each state having their own legislation and because of that individual policies and procedures.

In addition, the adoption programs of different countries may impose other requirements on potential adoptive parents in relation to factors such as age, marital status, health and/or religion. All programs require adoptive parents to demonstrate their ability to provide for the emotional, social and economic well being of an overseas-born child until maturity.

Each Australian State and Territory has responsibility for all aspects of adoption within its own jurisdiction. In the Australian Capital Territory (ACT) adoption is covered by the Adoption Act 1993.

Intercountry adoption is governed by the United Nations Convention on the Rights of the Child and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption. These conventions place obligations on both the countries of origin of children available for adoption and the countries of the adopters. The Australian Government has ratified both these conventions.

Australia operates a number of bilateral intercountry adoption programs with some countries under established bilateral Government to Government agreements. Australia has its principal bilateral programs with India, Fiji, Thailand, China, Hong Kong, Taiwan, Ethiopia, Bolivia and Korea.

Generally, these arrangements or agreements have been negotiated by one State on behalf of all other States and Territories. When the agreement commences each State and Territory deals directly with the designated agency in the other country.
The bilateral arrangement with China is different from the other bilateral agreements as is discussed in more details within the country profiles which also provides general information on other countries Australia operates adoption programs with.

The Commonwealth Attorney-General's Department is the Commonwealth Australian Central Authority, required under the Hague Convention on Intercountry Adoption. The Central Authority is established by the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998,* Statutory Rules 1998 No. 249 as amended made under the Family Law Act 1975.

It would appear from the manner in which statutory rules are worded that the Commonwealth Central Agency can do nothing more than monitor the State Central Agency and thereby Australia's compliance with the provisions of the Convention. It has, as it currently stands, no power to ensure a level 'playing field' in intercountry adoptions across the Australia.

The Statutory rules (Part 2 subsection 6(3)) state that the functions of the Commonwealth Central
Authority do not include the following:

(a) processing the day-to-day casework involved in a particular adoption;
(b) approving an application for the adoption of a child;
(c) giving consent to the adoption of a child;
(d) a function reserved, under the Commonwealth-State agreement, for a State or State Central Authority;
(e) accrediting a body for the Convention.

While the Commonwealth Central Authority has all of the duties of a Central Authority under the Convention and may exercise all of the powers, if the exercising of one of its functions would affect the exercise of a function of a State Central Authority, the Commonwealth Central Authority must consult the State Central Authority about the exercise of the Commonwealth function before it is exercised.

There should be a level playing field across Australia on intercountry adoption. As a signatory to an international convention in relation to adoption the Commonwealth should be able to exercise greater control by use of the 'external affairs' provisions of the Australian Constitution (Section 51 xxix).

However, a level playing field should not be viewed as the lowest common denominator. There are many archaic and, in some cases, downright discriminatory provisions in some State and Territory legislation, regulations and procedures – it would be a disaster if these were to be adopted across Australia. Instead a world's best practice model should be adopted.

Areas of difference between States and Territories

Age restrictions
In South Australia and Western Australia there are mandated maximum age gaps between the age of the child and the adoptive parent (different in each of these states). In the other states and territories there are no age restrictions (other than those administered by the Overseas Adoption Authorities).

There have been known incidences where the State agencies have rejected the referrals of children by overseas agencies because of the maximum age gap being exceeded by only one or two months. This is, of course, devastating for the couples concerned because they were then forced to wait for a referral of an older child. However, most disturbing is that fact that the referred child would have to 'reenter' the 'allocation pool' and as a result spend longer in an institutionalised setting (what we will never know is how long this took or if they were in fact ever placed)– completely at odds with State agencies' professed claims that this is 'about giving children families, not families children'.

This kind of incident must surely tarnish Australia's image with the overseas adoption authorities as it implies that 'Australia' knows better than they do which of their children should be matched with a family. Further, it must be a logistical nightmare for the overseas agencies to remember which State requires, what.

Due to the age discrimination by some States, some prospective adoptive parents are required to 'jurisdiction shop' and relocate to another State or Territory. This is of course disruptive to their lives and removes them from their support networks (ie family and

friends) which can be so important post adoption, but it also places extra pressure on the resources of the other State agencies. Unfortunately it can also 'breed' some discontent locally if the overseas program, the relocated family select, is subject to a quota system imposed by the other country.

Duration of relationship for Couples
All jurisdictions require couples to have been in either a defacto or legal marriage for a minimum period of time before they can adopt. This is used as a basis of determining that the relationship is a committed one. However, the minimum length of the relationship varies between jurisdictions – for instance in the ACT a minimum 3 year relationship is required and we understand in Victoria only a minimum of 2 years is required, and in South Australia a minimum of 5 years is required.

While Australian jurisdictions may allow defacto partners, to adopt, overseas requirements may specify couples need to be legally married to adopt.

Adoption by Singles
While, for some people, adoption by singles may be a contentious issue, to not allow it is discrimination. While some people may not agree with the life choices of people becoming single parents biologically, no government could or would try and stop them having children. However, this is exactly what some States in Australia do to single people with a desire to adopt a child. Again, completely at odds with State agencies' professed claims that this is 'about giving children families, not families children'. There are a number of overseas programs that allow singles to adopt.

To our knowledge South Australia and Queensland do not allow singles to adopt.

We are personal friends with a number of single woman who have adopted. The care, attention and devotion to their children is exemplary. They prepared themselves both physically, emotionally and financially prior to their decision to adopt. They have surrounded their children with caring and supportive networks of family and friends, providing roles models of both genders. They are mindful of the issues that might arise from adoption and single parenthood. The children have wonderful caring families, they just do not have a second parent. However, the same can be said for many, many families created biologically across Australia – perhaps created with not the same forethought and consideration that went into the creating of these loving adoptive families.

Same Sex Couples
There are a number of Australian jurisdictions that allow same sex couples to adopt. However, we are not aware of any overseas jurisdiction, with whom Australia has an adoption program, which allow same sex couples to adopt. Therefore, any attempts to attempt to leverage change to Australian legislation off the 'back' of an inquiry into overseas adoption is a nonsense.

Police Checks
All jurisdictions require applicants to undergo a form of police background check to ascertain whether there have been any incidents against children (this also allows for the 'unsealing' of juvenile records).

Most only require a check to be conducted by the Australian Federal Police. However, NSW goes to the extreme lengths of fingerprinting applicants – this has to be performed in local police stations, using the equipment normally reserved for criminal suspects.

Privacy Provisions
Most jurisdictions do not place restrictions on adoptive families telling their stories or revealing the identity of their child, publicly (including in the media).

Queensland legislation prohibits families from revealing publicly any information that would identify the child or their whereabouts prior to the adoption order being finalised. We understand that after the adoption is finalised the adoptive families are free to share whatever information they choose.

However, South Australia's legislation (SA Adoption Act 1988 - Sect 31) has a lifetime 'gag' on the disclosure in the news media of any identifying information. This legislation has been used, in effect, to gag adoptive families in South Australia from commenting publicly on recent changes to how adoptions are to be administered in that state (ie was previously managed by a private agency and has now been moved back to a government department). The maximum penalty is $20,000.

Duration of the process
The amount of time that it takes from initial contact with an adoption agency until the file leaves Australia varies greatly between States, although the basic processes are similar (initial contact/expression of interest, attendance at mandatory information sessions/seminars, formal application, police/medial/reference checks, assignment of social worker, homestudy assessment, formal approval to adopt, creation/collation of adoption file in line with overseas requirements, notarisation of file, dispatch of file).

Fortunately we live in the ACT which has one of the better reputations and fastest processing times. It was two years from the time of our initial approach to the ACT Government until we were united with our daughter – 14 months of which was the file being in China and 7 weeks awaiting clearances to travel. We approached the Department in August 2001, attended an information session September 2001, mandatory seminars in October 2001, lodged our formal application in November 2001, undertook police, medical and reference checks November/December 2001, commenced homestudy assessment January 2002, approved to adopted 14 March 2002, file notarised 21 March 2002 and file dispatched to China 17 April 2002 (the delay in dispatch was due to files going to China in batches and having to wait for them all to be completed).

Queensland has perhaps the 'worst reputation' in relation to the length of the process and does not currently have its 'books open' to accept expression of interests (they opened them briefly last year after having them closed for a considerable time). It is unclear when they will reopen their books. Those who were able to lodge an expression of interest face an uncertain length of wait before they can attend education classes (if they have not been screened out during evaluation of their EOI) and even greater uncertainty about how long thereafter before they are assigned a social worker and can start the process of formal evaluation via homestudies etc. Queenlanders who missed this opportunity of lodging an EOI must either wait for a reopening or consider moving interstate.

Lack or under resourcing appears to be at the heart of the delays experienced in any jurisdiction– there are just insufficient numbers of staff to process applications to the next stage in a timely and efficient manner. Additionally, as bureaucrats who have worked alongside specialist professions such as scientists etc, we know that in many instances specialist professions are engaged for their academic qualifications not their administrative abilities. Difficulties can arise when you try and take a specialist professions such as social workers away from their core competencies and area of professional interest and try and make them administrators. Efficiencies may be made by allowing the social workers to focus on the social work aspects of the adoption process and to engage administrators to deal with the administrative functions of adoption.

Some of the States with longer timelines, than the ACT, appear to be those charging some of the highest fees (such as NSW). You would expect the higher the fee the greater the resources, however this does not appear to be the case.

Transparency of procedures and access to information about the process
While it is possible to access the ACT adoption legislation and subordinate regulations on the Internet, the policy and procedures underlying these are difficult to access.

Adoptive parents often feel they are being 'drip-fed' information. In some cases this drip-feeding has resulted in information in relation to their eligibility not being made known (ie information about eligibility criteria in the procedures, although not necessarily the legislation and regulations, that potentially excluded their application at that time) until they had made a significant emotional investment in the process.

Transparency of process should involve the public availability (either via the Internet or through information packages to applicants) of all documents (this is of course based on the assumption that the referred to 'policies' are written and endorsed by a delegate and are not simply work practices that develop from an individual's reading of the legislation and regulations – which is opinion not policy) relevant to the assessment of an application.

There is an often used phrase 'information is power' and while an applicant does not know what policies are being applied, and how, they are disempowered.

Mandatory period of adoption leave
There are variations between jurisdictions in relation to how much time a primary carer must take off work post adoption. In the ACT the primary caregiver has to undertake, prior to approval to adopt, to take 12 months off work. In some other jurisdictions it is only 6 months.

Age gap between siblings
The ACT Government has a policy that there must be a 2 year age gap between siblings. Adoptive parents are advised that the Department can reject a referral of a child who is less than 2 years younger than the youngest child already in the family.

When questioned on the rationale for this age gap, 'studies' indicating this as the optimum age gap are quoted. However, individuals who have requested to see the studies have been unable to obtain them.

While two years may be optimum, biology is such that parents can go out and create a sibling with only a 9 month gap between siblings and governments are unable to prevent it.

The ACT also does not allow adoptive families to 'upset' the chronological order of siblings by adopting a child with an age higher than an existing child in the household.

Reluctance to initiate new programs with Hague Convention 'signatories'
Just because a country is a signatory to the Hague Convention does not mean that Australia has an adoption program with that country. It requires one of the state jurisdictions to initiate a program with that country – generally one jurisdiction acts as a lead agent and then other jurisdictions 'piggyback' on the arrangements established.

There would appear to be some reluctance to initiate new programs, whether this is due to lack of resourcing or has a more philosophical basis is unknown. For instance, a number of adoption groups have been lobbying for a program with South Africa to be established, but there does not appear to be too much movement on that front.

Term of Reference 2 - Any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas.

'One for Mum, one for Dad, and one for Australia'...A financial nightmare for the adoptive family

The Federal Treasurer, during the lead up to the last election, extolled the virtues of increasing Australia's population by having one baby for Mum, one for Dad and another for Australia (or in effect having more children than the current national average). Many adoptive parents would dearly love to adopt additional children, not only 'for Australia' but to give their child/ren siblings. Research has shown that adopted children tend to be better adjusted (in relation to the issue of their adoption) when raised with other adopted siblings, particularly those from a similar cultural background. Unfortunately, the financial cards are stacked against adoptive families.

Most overseas adoptions cost between $20,000 and $30,000 (including the cost of travelling to the country and staying the amount of time mandated by that country for the adoption proceedings to take place) – this is purely out of pocket expenses. Costs can fluctuate due to exchange rate variances (many costs overseas are quoted in US Dollars). These costs make adopting a family of three (or any number of) children a very expensive proposition.

There are many costs associated with adoption that are hidden – this is the loss of income due to the mandatory period one caregiver must be off work following the adoption. In the ACT you have to make an undertaking prior to being approved for one caregiver to be off work for 12 months following the adoption (this can be shared between the parents, although they prefer it to be a single caregiver to enhance

'attachment') – this can be a significant financial impost. The length of time required varies from State to State.

Many people falsely assume that the cost goes to overseas jurisdictions – however levels of Australian government, both state and federal claim a significant proportion of this money.

For example, the adoption of our daughter in late 2003 (the process started for us 2 years earlier when we lodged an expression of interest with the ACT Government, cost nearly $23,000. At that time the AUD/USD exchange rates were significantly worse than currently. The following is a rough breakdown of these costs:

- nearly $4,000 was paid to the ACT Government for seminar attendance, application fees, homestudy fees and post-placement reports.
- Nearly $1,500 to various agencies of the Commonwealth (police checks with AFP, DFAT notarisations and DIMIA Visa application fees and later grant of Australian citizenship) – with the majority being paid to DIMIA for our daughter's visa application.
- Just over $1,000 in translation costs (for paperwork going to and from China)
- Just under $2,500 to various agencies of the Chinese Government (notarisation, application fees, processing and registration of the adoption, child's passport);
- Just over $4,500 in compulsory donations to the child's orphanage (to cover the cost of care prior to adoption and the provide facilities for special needs children who cannot be adopted);
- Just under $8,000 in travel costs (airfares and accommodation for the minimum duration necessary to process the adoption, the issuing of child's passport and the processing of the Australian visa)
- The remainder was sundry costs associated with the adoption (eg vaccinations, courier costs etc).

Adoptive families in Australia do not receive any financial support to offset the direct costs of family creation via adoption. Families created biologically receive a range of financial support via the Medicare, welfare and taxation systems.

Medicare support for creating families, biologically

The Australian Government supports couples, creating their families biologically, via the Medicare system. Those giving birth are able to claim against Medicare for the cost of the obstetrician and public hospital admission.

Those couples experiencing difficulty conceiving are also supported financially via the Medicare system. In the March edition of the Australian Women's Weekly it was quoted that last year alone Medicare paid nearly $50 million dollars in claims associated with infertility treatment. Additionally, some costs of these treatments are also borne by private health funds.

We underwent seven unsuccessful infertility treatment (IVF) cycles ourselves. From our records the last IVF treatment cost around $7,500 gross (excluding the cost of stimulation hormones and pathology), of which Medicare paid slightly over $1,900 in rebates, private insurance covered around $950, leaving out of pocket expenses of just

over $4,900. Assuming the Medicare rebate was similar throughout the seven cycles Medicare paid close to $13,300 in rebates.

However, the Medicare coverage extends beyond these direct rebates – the pathology services, of which there are many (daily blood tests etc to monitor hormone levels) were bulk billed and are not included in the figures; also Medicare pays for the stimulation hormones which are quite expensive (from memory around $100 per pack of vials and I recall using up to 4 packets per cycle).

It is not possible to put a dollar value on our lost work productivity during this time – the physical and emotional stress was significant and impacted on both partners' ability to operate.

One can only assume that the Medicare funding of infertility treatment is an acknowledgment of the basic need (if not human right) of people to be able to create a family. This assumption is drawn from the premise that Medicare does not fund 'vanity' treatments or unnecessary 'wants' such as cosmetic surgery for non-medical reasons.

Adoption is a valid form of family creation, yet there is no financial support for it by the Australian Government. Although the cost of a single overseas adoption is high, it has a success rate of 100% each 'cycle' – the same cannot be said for IVF which often requires couples to undergo numerous cycles before there is a live birth and sometimes it is never successful – the cost to Medicare of these successive cycles to achieve a live birth is probably significantly higher than the cost of a single overseas adoption. There is no current limit to the number of cycles that Medicare will fund.

We should point out that we are not advocating a cut to Medicare support of infertility treatment – we support people's desire to create a family in whatever manner they are comfortable with. However, we are trying to draw your attention to the injustice of financially supporting one style of family formation over another.

Taxation Support for the creation of families biologically

The Australian Taxation system has provision for a rebate of 20% for out of pocket medical expenses in excess of a $1,500 threshold in financial year. Those seeking to create their family biologically can claim the rebate on their out of pocket medical expenses associated with either treatment or birth. As you can see from the figures quoted earlier it does not take much infertility treatment to reach the threshold.

The Australian Taxation system provides no support by either deduction or rebate for the costs of creating a family via adoption.

Discrimination in relation to Family Assistance Office payments against families created by overseas adoption

The Family Assistance Office administers the Maternity payment (the lump sum payment of $3,079 for each child, which is not income tested). Adoptive families are 'eligible' however the child has to entrusted into the adoptive family's care within 26 weeks of age. The discrimination lies in the age in which the child must be when they enter your care. Hardly any child adopted from overseas enters their adoptive parents'

care at under 6 months of age (and I have known of local adoptions that have occurred after the child was six months old). Our daughter was 13 ½ months old when we adopted her, which is about the average age for adoptions from China.

The maternity payment is supposed to recognise the extra costs incurred at the time of a new birth or adoption of a baby. However, regardless of the age a child enters your life through adoption there are significant costs associated with providing equipment for that child (eg cots, car safety seats, child-proofing the home etc).

While it has been mooted that the Government is considering raising the age limit in relation to adoptees to 52 weeks, this would still exclude a large majority of overseas adoptions. The AIHW statistics for 2003-04 (Australian Adoptions 2003-04, AIHW) state that in that year only 41% percent of overseas adoptions occurred when the child was under 12 months of age. A rule other than that based on the child's age at adoption would be far more equitable.

There would be an extremely small impact on the Budget 'bottom-line' of allowing the Maternity payment to be paid to all adoptive parents regardless of the age of the child. In 2003-04 the AIHW notes that there were only 370 overseas adoptions (and an additional 73 local adoptions), which would equate to only $1,139,230 that the Government would have had to expend for overseas adoptees, if the rules had been relaxed entirely. It is a small Budget impact but it would make a significant impact to the bottom line of adoptive families.

The maternity payment has been touted as a mechanism to arrest the declining birthrates and the ageing population. While adoption does not address birth rates, overseas adoption increases the population of 'minors' in Australia – our adopted children will one day grow up to be Australian taxpayers who will help shoulder the burden of an aged Australian population. The irony is that their families have not received any support from the Australian taxpayer, in recognition of this investment in the future of Australia.

Discrimination by Employers

As previously mentioned most Australian jurisdictions have a mandatory period, post-adoption, that one caregiver must be off work and at home with the adopted child. In the ACT this is 12 months and couples must agree to the requirement before they are approved. How you will cope with the potential loss of income, following on from the cost of the adoption, forms part of the active assessment in your homestudy. People who do not agree are likely not to be approved; families who are found to flout the requirement post the adoption are likely to either receive an adverse post-placement report (which may affect the adoption outcome if the adoption needs to be made final in an ACT court; note adoptions from China are finalised in China and do not require an ACT court appearance) or may find it difficult with subsequent adoption applications.

While there are good reasons for the departments insisting on parents staying home with their adopted child, it is not a restriction that is placed on families with biological children. All families with biological children are free to place their children in institutionalised care as early as they see fit (although most childcare centres will only take children at 6 weeks of age and above) and return to work (it is acknowledged that

many people do not return to work willingly but must do so for financial reasons, but adoptive families face financial pressures also). There is no government agency anywhere in Australia that can or will attempt to stop a parent returning to work after having a biological child.

All children who have been institutionalised, suffer to some degree (from mild to extreme) attachment issues – that is an ability to bond and to trust to primary caregivers. It is sometimes difficult to establish this trust when the child has been exposed to situations where they have had multiple carers or have suffered multiple losses (for example formed a bond with carers only for them to leave the job or be rotated). Adoption professionals believe that a child's first eighteen to thirty-six months are critical. It is during this time that the child is exposed in a healthy situation to love, nurturing, and life-sustaining care. The child learns that if they have a need, someone will gratify that need, and the gratification leads to the development of trust in others.

Attachment Disorder develops if children do not form a trusting bond in infancy and early childhood. A bond of trust is essential in continued personality and conscience development, and is the foundation for future intimate relationships.

The mandatory periods that the departments expect parents to be off work is aimed to give the child time to learn to trust their primary caregiver and know that all their needs will be satisfied by that person.

Prematurely placing a previously institutionalised child, with attachment issues, in another institutionalised setting where there are many carers– childcare- may impact on their ability to form a bond of trust with their parents and impact on their future relationships.

However, the sound basis of this need for the extended period at home post-adoption is not acknowledged by many employers. Many seem to take the view that as the child is past the stage of early infancy that there is no need for parents to take leave, and if leave is to be taken it should be without pay. It is also our understanding that adoptive parents do not have the same protection under employment law that a mother taking maternity leave may have.

Many employers who grant paid maternity leave do not extend the same 'privilege' to adoptive parents arguing that maternity leave is for the health of the mother, not the child – ie a quasi-sick leave –strange considering the medical professional long ago ruled out pregnancy as an illness.

Some other employers will only give an adoptive parent half the amount of paid leave they give in maternity leave, using the argument that the first half of maternity is intended to be pre-birth (ie pre-child) and as there is no 'birth' the parent is only entitled to the part of leave when they do have custody of the child. However, the lack of logic in their argument is borne out by the fact that they let pregnant women who are deemed fit by their doctor to work up to the date of birth and they still pay them the full amount of leave.

Even in the Australian Public Service how adoptive parents are treated varies from agency to agency. Adoption leave may or may not be included in an agency's certified

agreement. Progressive agencies have shown themselves to entirely non-discriminatory in this matter. However, it is amazing that in this day and age that a large number of agencies in the APS, who espouse the principles of non-discrimination against clients and also employment classes, on the basis of race, religion and physical ability, can simultaneously discriminate against a class of their employees on the basis of how they 'create' their family.

We were, in part, lucky when we adopted as one of us was working for the Commonwealth Department of Health, which had leave provisions for adoptive parents on par with those offered to biological parents (ie 12 weeks paid leave for the primary caregiver, and 4 weeks leave for the non-primary caregiver if they worked in the agency). However, the other one worked in the Australian Taxation Office, which offered (and still does offer) nothing. The primary caregiver became the one that received the most paid leave.

Since that time, the primary caregiver has returned to work and has transferred to a new department. An important factor in the transfer decision was whether the new agency offered equal benefits to adoptive families. We are please to report that the Department of Industry, Tourism and Resources holds adoptive families in equal regard as its biological families.

Financial Support provided in other countries for adoption and what Australia can learn from them

The US Government provides a significant financial support packages for adoption by its citizens (an interesting counter-balance to their lack of a universal health care system and private funding of infertility treatments).

The US Taxation system allows a tax credit of up to US$10,390 for qualifying expenses paid to adopt an eligible child (including a child with special needs). The adoption credit relates to each attempt to adopt an eligible child and although it would appear that the credit can be taken over successive taxation years the maximum credit per adoption is US$10,390. The adoption credit is an amount subtracted from a taxpayer's tax liability (in the Australian taxation system it would be referred to as an 'offset'). The adoption credit is not available for any reimbursed expenses (some US employers also reimburse their staff for adoption expenses, such benefit is also excluded from the adoptive parent's taxable income).

The US IRS defines qualifying expenses as including reasonable and necessary adoption fees, court costs, attorney fees, travelling expenses (including amounts spent for meals and lodging while away from home), and other expenses directly related to and for which the principal purpose is the legal adoption of an eligible child. An eligible child must be under 18 years old, or be physically or mentally incapable of caring for himself or herself.

Although means tested, the income limit is high. A taxpayer earning US$155,860, or less, will not have their credit affected; those with an income between US$155,860 and US$195,860 will have their credit reduced; those earning more than US$195,860 are not eligible for a credit.

For further details on how the US Adoption Credit operates visit:
http://www.irs.gov/taxtopics/tc607.html

They also publish a guide 'Publication 968 (2004), Tax Benefits for Adoption' which can be downloaded from:
http://www.irs.gov/publications/p968/index.html

Although the Canadian Government does not currently offer adoptive parents a taxation credit or rebate a private member's bill to include a CAD$7000 tax credit system into the 'federal' tax system was tabled prior to 2004. However, debate did not proceed in 2004 and the Bill lapsed when the Canadian election was called.

At the second tier of Canadian government, the provincial (state) level, Quebec is understood to offer a tax credit to its residents. Like Australia, adoption in Canada is provincially (stated) based and managed and so it would seem, at least part, of their taxation system is also provincially based.

An adoption taxation credit along the lines of the US system but at a rate of, say, AUD$10,000 (or only a third of the actual cost of some adoptions) would have only cost $3.7million in 2003-04 in relation to overseas adoptions (based AIHW statistics on the numbers of overseas adoptions). The budgetary impact of a taxation credit for local adoption can be largely ignored because the costs are substantially less that those associated with overseas adoption and the number of adoptions small (only 73 local adoptions occurred in Australia in 2003-04).

Some may argue that an adoption tax credit (offset) would encourage more people to adopt from overseas (and although not an undesirable prospects as it would give more children families they desperately deserve) and thus drive up the impact on the Federal Budget. However, it may encourage more people to give up expensive infertility treatments early and thus offer offset savings from the Medicare budget.

There is also a limiting factor to the number of possible overseas adoptions and this is the number of applications that State government adoption agencies are staffed to accept and process – it would appear that many jurisdiction are working to their maximum capacity (and in some cases – eg Queensland – demand already exceeds available agency resources). It is debatable that without an increase in state agency resources whether a tax credit would lead to more adoptions (it may just lead to longer waiting lists).

An alternative to a tax credit (offset), but still utilising the tax system, would be a rebate along the lines of the out of pocket medical expenses rebate (currently 20% of expenses over a threshold value) in the current Australian taxation.

An alternate model would be to use the infrastructure of the Family Assistance Office, rather than the taxation system, to make a one-off (per child) Adoption Payment.

Regardless of the delivery methodology, there should be no exclusions on eligibility based on the age of the child at adoption. Exclusions could be imposed for such things as adoptions by relatives (for instance a step-parent legally adopting their spouses birth-child etc).

Difficulties encountered with Commonwealth Government Agencies in relation to an adopted child

Negotiating the paperwork 'maze' with some Government agencies can be a nightmare at the best of times, but we have found that the additional 'complicating factor' of adoption (perhaps because it is rare these days and staff are not adequately trained in their own rules for situations outside the norm) seemed to make matters worse. We have found that you have to become an expert in their 'systems' (information garnered from other parents in adoption support groups and reading their own information on their websites - something their own staff seem to neglect to do) in order to achieve success; you have to be determined and be a forceful advocate for yourself and your child. Not everyone is cut out for this and they will have a long and frustrating interaction with the agencies.

Medicare

When we returned to Australia we had been advised by the ACT Intercountry Adoption Unit that we should get our child assessed by a medical professions, just as a matter of routine. They provided us with a letter to take to Medicare to facilitate our child's Medicare registration. The Medicare officer took copies of all the paperwork and said they had to be sent away to Sydney for checking and they would make the decision there as to whether our legally adopted child (who had a permanent residency visa and who was eligible for immediate grant of Australian citizenship) could be given Medicare coverage – they could not say how long approval would take. During that time we were advised that she could not have a temporary Medicare number or card and that we would have to cover any medical expenses in full but if her application were approved we would be able to claim them back then.

During the 2-3 week wait for approval we had to cover the cost of our daughter attending a GP to treat a chest cold and seek a referral to a paediatrician for the routine checkup - if was subsequently reimbursed on approval of the application, however it was an additional financial burden. During that time if she had required prescription medicine she would have been ineligible to receive PBS subsidised medications (it is unclear how the cost difference for these could have been recovered retrospectively) and it would be debatable if she could have received free public hospital admission as a Medicare patient, if it had been required; she was not eligible to be bulk-billed because she was not on Medicare's books.

Fortunately when we attended the Medicare Office to apply for registration, we had our daughter with us – we know other adoptive parents who have been turned away because the child was not there as 'proof' – it is unclear to us whether biological parents have to show there children when adding them to their Medicare card.

In contrast, we attended a branch of my private health fund on the same day with identical paperwork and the branch staff were delegated to add our child immediately to our cover.

Immunisation Register

The Australian Immunisation Register records all immunisations given to a child in Australia. Our daughter had had quite a number of immunisations in China, recorded on

a Chinese immunisation chart. Although this form would have been accepted as proof of immunisation, we decided to have our daughter's blood titre levels tested (test her immunity levels) to ensure that the vaccines had been effective. While we were waiting for the results we started the administration of the age appropriate vaccines (in accordance with the Australian Immunisation standards). When the tests confirmed that our daughter's immunity levels indicated the previous vaccines had not been effective, we started a 'catch-up' schedule (and this kind of process is very common for adopted child, or any child who migrates to Australia).

Although all immunisations were recorded by the Australian Immunisation Register, the fact that they had been out of 'order' created an ongoing series of problems, the effect of which was my daughter's record was flagged as her not having been appropriately vaccinated (when in fact all vaccinations were up to date). A number of Family Assistance Office payments are linked to children being up to date with their vaccinations – this incorrect flagging resulted in the Family Assistance Office initially rejecting our application for Childcare benefit.

Australian Citizenship

We applied for our daughter's grant of Australian Citizenship three months after our return home. The DIMIA processing went smoothly, however we had to make a special request for her to attend a citizenship ceremony as children under 16 who are not receiving their citizenship at the same time as their parents are not eligible to attend a ceremony. The reason we wanted her to attend a ceremony, was because relinquishing one's citizenship of birth (China does not allow dual citizenship, although Australia does) and becoming an Australian is a momentous occasion in anyone's life, regardless of age, and should be appropriately marked.

At that time the ceremonies were conducted by local governments (and in the case of the ACT, the ACT Government) on behalf of DIMIA (we understand that may have changed recently and DIMIA is again conducting the ceremonies). The DIMIA staff member who processed the application was very understanding and spoke to the ACT Government representative on our behalf and did pave the way for our daughter to attend a ceremony. However, we have known other requests interstate to be rejected outright by the organisers.

Australian Passport

Recently, we applied for our daughter's first Australian passport. In an effort to avoid any confusion we lodged the application, in person, directly at the Australian Passport Office in Canberra (rather than at an Australia Post outlet). We realised that passport applications for overseas adoptees would not be seen frequently (give the few children adopted annually) and thought that the Australian Passport Office would have the best understanding of requirements.

While the staff were very friendly and courteous, they were for a time insistent that they could not issue our daughter a passport unless she had an Australian birth certificate (some overseas adoptions finalised by an Australian Court result in an Australian birth certificate being issued; Chinese adoptions are finalised in China and do not require Australian Court finalisation, so there is no mechanism for an Australian birth certificate) –bizarre logic considering another arm of Government – DIMIA – felt the same paperwork was sufficient to grant her Australian Citizenship. We had to have a long

discussion on the intricacies of overseas adoption before they would accept the Chinese birth certificate and English translation (plus other necessary paperwork, including Australian Citizenship Certificate), obviously still with a few reservations in their mind and a comment that if there were any problems someone would contact us. The whole interview took longer than anticipated, however we were fortunate as we know of other families interstate dealing directly with other offices of the Australian Passport Office who have been turned away for exactly the same 'excuse'. We are pleased to report that our daughter's passport was issued in the standard 10 days.

If you require clarification on any of the issues raised please do not hesitate to contact us.

Yours faithfully,

Lisa Wilson
(transmitted electronically)

Stewart Turner