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April, 2005

Committee Secretary  
Standing Committee of Family & Human Services  
House of Representatives  
Parliament House  
Canberra 2600

**SUBMISSION NO. 121**

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To the Committee members,

First, thank you for conducting this enquiry into Intercountry adoptions in Australia. We welcome this enquiry as we have been lobbying both NSW and federal MP's for some time in regard to the long-standing and growing inequities between the treatment of biological and adoptive families in Australia.

We have an adopted 2 year old daughter, Alexandra Yudi, who was adopted from Colombia when she was 3 months old. We originally applied to adopt in April 2000 and finally became a family in August 2003. (You will see more information about this in "Our adoption story" below) We are now struggling for a second adoption, and are finding that the second time around is no easier.

Our experience of intercountry adoption has taken place in NSW, and we have most experience with the NSW Department of Community Services (DoCS). However, we also communicate with many other "adoptive" families in Australia, and it is apparent that the challenges facing adoptive families include greater financial, emotional, and waiting periods than biological families. Not only do the Australian state & Federal governments offer less support to adoptive families than biological families, in many cases they actually work against the formation of adoptive families, or have introduced procedures to limit the numbers of children adopted into this country. We believe that this is a serious breach of the spirit of the Hague Convention on Intercountry Adoptions ratified in 1998.

#### **State Government attitudes to adoption**

The Federal Government has delegated to the states the authority to carry out the day-to-day processing of adoption applications under the Hague Convention. However, legislation and practice differs widely between the states, and changes according to state government personnel or budgets. While some states have efficient programmes that work well others do not. The number of adoptions vary widely depending on the state (for example the ACT processes 4 times as many adoptions on a per capita basis as NSW). In all states the state governments will not allow non-government organisations to process adoption. This is despite the fact that state departments of community services have consistently stated that they are under-resourced and unable to process applications in a timely manner. For example until recently in Qld there was a waiting list of over 600 families waiting to submit applications to adopt a child from overseas.

Families who consist of a single parent or who are older than the specified maximum ages have moved from Queensland and South Australia to NSW, the ACT or Victoria in order to be able to adopt. Others have moved from Queensland to the NT to avoid the lengthy wait in Qld. ***It should not be the case that adoptive applicants must move to a different state in order to be able to adopt a child.*** Where problems are encountered in the adoption process applicants have no body to which they can appeal and receive an unbiased hearing. The best interests of the child should be kept paramount and an appeals body with the ability to direct action in each state is required in order that the spirit of the Hague convention be upheld.

#### **NSW Adoption fees**

The NSW Department of Community Services recently tripled adoption fees on short notice and without regard to the needs of adoptive families and the children in need of families, pricing many families out of

adoption altogether. There has been no increase in local adoption fees (even though these applications are considerably more expensive to process). Furthermore, they have done so in a very cowardly fashion, by introducing this as a back-door departmental fee increase rather than have the fee disallowed by the NSW State Parliament. This department did not advertise their intentions, but called on the various adoption support groups to forward submissions by 21<sup>st</sup> May, 2004 to allow for community consultation. There has been little response by the Department of Community Services to any of these submissions, and there has certainly been no consultation with concerned parties. The NSW State government should not be allowed to victimise an already disadvantaged sector of the community for the simple reason that the Carr government cannot balance its books.

The truly insulting thing about this whole action by the NSW State Government is that DoCS announced in that same financial year that they had received a funding boost to 800 million dollars. This means that DOCS intervention in NSW families now costs our state government 800 million dollars a year, and they increased intercountry adoption fees in an attempt to raise less than 1% of their annual budget from prospective adoptive parents. This is apparent as nothing more than a method of fundraising, as DoCS knows that prospective parents are so desperate to form a family that they will beg, borrow or steal the money required.

### **Costs of adoption versus having a biological child**

Adoptive families certainly don't begrudge biological families their right to government support or their happiness in forming families. What we do request is equity in our treatment by the State and Federal governments. Our taxes support hospitals and other maternity costs, our taxes pay the Maternity & other family payments, our taxes pay for IVF, and our taxes pay DoCS (& other state) costs for families who require government intervention. We don't understand why our governments begrudge the small costs of equal support for adoptive families.

We contend that if any government department sought to charge biological mothers \$10,000 for each child they gave birth to there would be an uproar - clearly, families could not afford this fee. However, intercountry adoptive families are few in number, and we are fighting a widespread belief that we are all wealthy childless couples. This is not the case, as infertility occurs in all levels of society, and not all adoption applicants are childless. In fact, given the increase in infertility in Australia (which continues to increase despite the huge subsidies paid by government to IVF clinics) it certainly appears that intercountry adoption applications will continue to increase. This is a clear-cut case where there is a need for the Federal Government to step in to stop the state governments' profiteering, and to uphold their overseeing role as the Central Authority.

### **Inequities in Government "baby" support payments**

Ironically, these higher NSW fees came into place on the same date that the Federal Government's new "baby bonus" was introduced. This is another slap in the face to adoptive families, who also need support from our governments. The new maternity payment provides \$3000 to each new birth family. However approximately 90% of adoptive families do not qualify for this payment because of restrictions based on the age of the child at placement. This is despite the Human Rights and Equal Opportunity Commission acknowledgement of the special needs of children adopted as non-newborns and the recommendation that age of child at placement not be taken into consideration for determining eligibility for such payments.

### **Maternity Leave Entitlements**

Adoptive families are also disadvantaged when it comes to unpaid and paid maternity/paternity leave when compared to biological families in having less benefits available to them in most situations (for example 1% of workplace agreements have paid adoption leave while 30% have paid maternity leave and in most locations families adopting children 5 year of age or older have no leave mandated under legislation). In our case, neither of us were eligible for maternity or paternity leave when we became parents. The NSW Attorney General's Department offers 14 weeks paid leave & up to 2 years unpaid leave for women who give birth. However there is no entitlement to paid adoptive leave for adoptive mothers.

## **Financial Support**

Since an intercountry adoption costs \$20-40,000 and since birth is so highly subsidised by government an argument can be put forward that adoptive families are more in need of financial support than biological families. Other federal governments around the world support the formation of families through adoption. Some countries charge no state adoption fees (eg: New Zealand), some countries provide cash grants or tax relief for families who adopt children (eg: USA, Canada, etc). Yet the Australian government not only makes it exceptionally difficult for adopting families, it also financially penalises families formed through adoption. The policies of the Australian governments certainly show a negative attitude to families who choose to parent children born outside Australia. To date, no government has been able to explain why our families have been given such discriminatory treatment.

***From a funding point of view, it certainly appears that our state & federal governments are only pro-family if children are born in Australia. We reject the implication that our adopted children are not as valuable to our country as children born in Australia.***

Adoptive families have the same financial needs as biological families with regard to food, clothes, beds, car seats, etc. However they have greater financial needs in many areas, as one parent MUST stay at home for at least 6-12 months under current adoption rules. Currently, adoption is an expensive process and families struggle to pay the costs involved in adopting, sometimes saving for years, borrowing money, taking on second jobs and even selling the family home or increasing the size of their mortgage. There are very few children available for adoption within Australia, which means that most adoption applicants turn to intercountry adoption as their only alternative to form a family. The level of government support for biological families in Australia further deepens the financial divide between biological & adoptive families in this country.

For adoptive parents there are direct costs associated with intercountry adoption, such as travel costs to the child's country of origin, legal fees, immigration fees etc. But there are also costs associated with the special needs of adopted children needing one parent to remain at home full time with them post-placement, for at least 6 months but sometimes for years, foregoing income over that time. Most primary caregivers of adopted children are women, and these high costs increase the financial pressure on families for women to return to paid employment, to the detriment of their children. This pressure is magnified if they wish to adopt another child.

## **Why the Federal Government should take a more pro-active role in intercountry adoption**

We realise that adoption is currently considered to be a "state" issue, however the federal government should be concerned about this matter for the following reasons:

- Under the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, intercountry adoptions are under the jurisdiction of the federal government. The Commonwealth Central Authority is contained within the Federal Attorney General's Department. The Central Authority has delegated authority to the states but they remain the body ultimately responsible for intercountry adoptions. The high costs & inequality of adoption will prevent willing, suitable families from adopting children in need of a family, and could be construed as being obstructive and against the principles of the Hague convention. In addition, issues such as the commodification of children and discrimination against children due to race/nationality should also be of concern.
- Since Australia ratified the Hague agreement, the numbers of children adopted into Australia have declined markedly. This is due to the abandonment of many existing programmes, and the practice of disallowing private agencies to be re-accredited under the new agreement. This decline in adoptions is directly related to the lack of interest and funding by the various state governments, not by any shortage in children in need of families. While we acknowledge that the adoption approval process should be thorough in order to approve only suitable applicants, we also believe that the state & federal governments have actively worked to stymie intercountry adoptions. At a time when Australia's birthrate is dropping, and the rate of infertility is increasing, it is unfathomable why Australia's governments are largely opposed to intercountry adoptions.

- At this time there are literally millions of children living in orphanages worldwide, and in many cases these children are deprived of basic human needs which Australian children take for granted. Adoptive applicants question why these children remain in horrific conditions, when there are so many Australians who are willing to provide them with a loving & secure family?
- NSW DoCS & other states have discussed the re-accreditation of non-government agencies since the Hague agreement was signed, yet to date no accreditation processes or guidelines have been drafted. It should be noted that DoCS has used competing costs of non-government agencies as a reason to increase adoption application fees – when no competition exists! It should also be noted that adoption applications in QLD were halted for a number of years due to departmental budgetary constraints, while the responsible department still would not accredit private agencies! There is no logical reason for this inaction, other than a clear bias against intercountry adoption.

***We seek your assistance in having these injustices reversed & ask you to consider the following initiatives which should be introduced & managed at a federal level:***

1. That the Federal government assume its responsibility for fostering Inter-country adoptions in Australia. The federal government is the signatory to the Hague Convention, therefore it is responsible for ensuring that the conditions of this agreement are met. We do not suggest that the federal government process Intercountry adoption applications, however Under the Hague Convention it has an overseeing role, to ensure that all Australian states behave in an equitable manner & carry out the requirements of the Australian government. In this instance, the federal government should provide adequate funding to the various states to allow them to administer their duties in this regard, without further penalising adoption applicants.

2. In order to facilitate this overseeing role the Federal government should make possible an avenue of appeals at a federal level if possible, or if this is not possible at a state level (ie, required by the Federal Central Adoption authority) for appeals against decisions made by the various state governments which affect Intercountry adoptions (for example the fee increase in NSW or the freezing of adoption applications in Qld) and accountable to the Central Adoption Authority. This appeals body would be independent and ensure that the best interests of vulnerable children be kept paramount.

3. The federal government should oversee the accreditation of Non-Government agencies to process adoption applications. These agencies should be accredited Australia-wide, so that parents have choice in adoption service provider, without having to move states. These adoption agencies should be overseen by a federal government agency to ensure strict adherence to the Hague Convention.

4. That the “adoption community” and its organisations be involved in the implementation of the reforms sought, so that those with personal experience in these areas can assist to develop a “best adoption practice” model that can be introduced in all states.

5. That Federal Government family support payments such as the “maternity Payment” be made equally available to adoptive families, regardless of the age of child at Placement, in line with Human Rights & Equal Opportunity Commission recommendations.

6. That paid Parental Leave legislation be amended to mandate equality in paid and unpaid leave for adoptive families with biological families, regardless of the age of the child at placement.

7. That the Australian Federal Government consider tax relief or other applicable schemes, as instituted in many other “Western” nations, to alleviate the high costs involved in inter-country adoption.

Last year after DoCS increased its fees, we contacted several other adoptive families to see if they would join us in lobbying state and federal governments for equality in the treatment of adoptive families. The requested actions and signatures are attached. You will see from this list how many lives have been touched by just a handful children adopted into Australia. We reiterate our beliefs that our children are not only a wonderful addition to our families, but that they are also a valuable asset for Australia. The magic that they have brought into our lives is a testament to this.

In a world where there are so many children living in poverty, it seems absolutely ludicrous to financially reward Australians who have biological children, while penalising those who make the decision to adopt. We adoptive families may be a minority, but we certainly value our children, simply because we have had to struggle so much to become a family. Like any loving parents, we will fight for the rights of our children – especially when our governments discriminate against them because they aren't born in Australia. How are we supposed to look at our beautiful children & tell them that their new country has done everything in its power to NOT have them here?

We look forward to hearing the results of this inquiry, and we hope to enlist your support in this important matter. We would be happy to discuss this matter with you at any time.

Yours faithfully

Cathi, David & Alexandra Pirani

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April, 2005

## Our adoption Story

We were married in 1990 (at the age of 24 & 26 years old) & waited until we were in a secure financial position to start our family – 5 years. We then discovered that the chances of conceiving naturally were highly unlikely & started fertility treatment. This treatment was both unsuccessful & so damaging to our health that we never tried IVF but instead sought treatment from natural health practitioners. Therefore, we have never caused Medicare pay for any expensive fertility treatments.

By 1999 we had given up on the idea of ever having our own family, and after a period of grieving we finally in April 2000 sent an Expression of Interest to attend an adoption seminar. After a delay of 8 months we finally attended the seminar in December, 2000 (we were only invited to this seminar because we called the DoCS office in September to question the delay). Upon completion of that 2 day seminar we sent in all the reams of paperwork that were required & waited, and waited, and waited. The approval process took over 18 months, and we were finally officially approved in July 2002. Once we were approved by DoCS, our parent group (Australian Families for Children) took over & liaised with the adoption officials in Colombia until we were allocated a baby girl (Alexandra Yudi) in July 2003.

We flew to Cali in Colombia 4 weeks after we received our telephone call & stayed overseas for nearly a month. On 25<sup>th</sup> August, 2003 we finally became a family, & it was love at first sight as we were handed a beautiful 3 month-old baby girl with enormous dark eyes. Within 2 weeks we had well & truly bonded as a family, and we all adore each other. Our 3 weeks in Colombia was a marvellous experience, allowing us to bond with our daughter & to get a feel for South American culture, which is so important for our daughter as she gets older. The Chiquitines orphanage in Cali is a wonderful place, where the children of all ages are housed, fed, clothed & given heaps of affection by the dedicated staff.

In Colombia we were given photos of Alexandra's birth mother, as well as medical & personal information about her birth family. We send her & the Orphanage regular updates & photos of Alexandra as she grows up. If Alexandra had stayed with her birth family, she would have faced a future of deprivation, without schooling, medical care or any of the other benefits that we take for granted. She definitely has a more stable & secure future in Australia, but she has also brought so much happiness to our whole family.

When we arrived at Sydney airport on 17<sup>th</sup> September, our whole family turned out to meet our new daughter. There were tears all around, and all of our family & friends have accepted Alexandra with open arms. Even total strangers remark on how beautiful & happy she is, and we now consider ourselves to be the luckiest parents in the world.

### **Dealing with DoCS**

The approval process was the hardest part of the adoption process. DoCS advised from the start that it is the child's welfare that they care about – not ours, and the caseworkers treat every client as if we are the enemy. If we telephoned their office to check any progress, we were given no information & no politeness. The basic attitude was "bugger off, I'm busy". We telephoned their office 6 times over the course of 2½ years, & were made to feel like a nuisance every time.

The hardest part about all this is the lack of information, and the lack of any assistance or support. Obviously DoCS aren't interested in our personal struggles to stay positive during this long and difficult process. We were given the impression that it was a part of the test, if you could handle the difficulties of the 2-3 years approval process & still keep going, it meant that you were really determined to adopt.

A few of us adoptive parents have decided to write a book about surviving the adoption process – a big part of which is trying to cope with no information & no support from DoCs. It is a hugely emotional thing to be at the mercy of public servants who decide if you're good enough to be parents. You can't talk to your social worker about your fears, because you're worried that your social worker will think you're

unstable & not recommend you for adoption. The adoption process is much more stressful than fertility treatment, at least with fertility treatment you know what the process is. DoCS makes the whole process so secretive & has this "public servant" attitude that all clients are the enemy. To most adoptive parents, DoCS become the enemy, which is not the way it should be in a department which is affecting families so profoundly.

### **The Cost of adoption**

Only a small proportion of the people who attend the adoption seminars actually apply for adoption, and that is generally due to the high costs involved. DoCS advised us that intercountry adoption costs in excess of \$20,000, which is a lot of money to most people living on standard wages. We were devastated when we heard this information, and thought that having a family was now totally out of our reach. However we were so determined to have a family that we decided to proceed, no matter what the cost. Many other people at our seminar couldn't afford these costs, and it was heartbreaking to see their hopes for a family just die. We adoptive applicants pay for: Introductory seminar, Police checks numerous times, social worker reports, AFC (parent group) membership, translation costs, overseas legal fees, travel to overseas country. AFC took over all the work after approval by DoCS & when adopting from Colombia the court work is completed in Colombia, so there are no court fees in Australia.

The whole process for our daughter's adoption cost us more than \$35,000 in total, and we would never have been able to afford this without financial support from our family. In order for us to afford this process, we sold our house in the Blue Mountains & moved to a farm in Bathurst, so that we could re-borrow on our mortgage. We love our lifestyle change & Alexandra loves living on the farm, but our reasons for this change were largely financial.

In addition to these high costs, we were also not eligible for any paid maternity leave, as the NSW Attorney General's Department does not give any paid leave to adoptive parents. Further, DoCS insists that one parent does not work for at least 12 months after becoming a parent, which is fine – except that if we had a biological child we would have 16 weeks paid leave and the option for unpaid leave up to 2 years. Once again we have been disadvantaged financially because Alexandra is not our biological child.

The process for other private organisations to approve adoptions in NSW has not been finalised, so we have no alternatives to DoCS – and yet DoCS used this as an argument for increasing their fees! When we were in Colombia we met many adoptive parents from other countries, and we were proud that our adoptions are handled by the government, so that our adoptions in Australia are not based on the US model, and that nobody is given preferential treatment because of their affluence. However after dealing with DoCS for over 5 years, we would now be happy to use a private adoption organisation if it means that we are treated as human beings rather than as criminals.

### **Another adoption?**

We dearly want a brother or sister for Alexandra, because apart from our personal longings, we believe that it is very beneficial for every child to have siblings from the same culture. We have already submitted an application for another adoption and are currently undergoing our social worker assessments (again!). We had always wanted 3 children, and would dearly love to adopt again. However we anticipate that the adoption processes & travel for our second child will cost more than \$45,000. This means that it is highly unlikely that we will be able to afford another adoption, and with the lengthy time delays we will probably be too old.

Alexandra is nearly 2 years old now & she is bright, beautiful and such a happy child. We absolutely adore her & she is so happy to be with us. She is definitely our daughter in every sense, and we are so proud of her Colombian culture & appearance. Our quest to be a family took 8 years, and it has not been an easy time, but she is worth every tear. We now socialise regularly with other adoptive families, and we are constantly struck by how much the adoptive parents treasure their children. In fact, we now feel that we have a huge extended family with all of our South American children.

It does sadden us that it's necessary to actively campaign to have the same parental benefits that are available to biological parents. We have the same parental responsibilities, both financial and emotional, and we have the same aim - which is to raise our children to be happy, confident and proud Australian

citizens. Although our whole family has accepted Alexandra with open arms, it appears that the government of her new country will always see her differently. We have travelled widely over the last 2 years, and everywhere that we have been, everyone has been so happy to meet Alexandra and interested in her family story. We believe that community perceptions about adoption have changed, and that now its necessary to change government discrimination against children adopted from another country.

Cathi & David Pirani