

Australian Families for Children Inc.

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Sunday, 20 March 2005

**Committee Secretary
Standing Committee on Family and Human Services
House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA**

Good morning,

RE: INQUIRY INTO ADOPTION OF CHILDREN FROM OVERSEAS

The House of Representatives Standing Committee on Family and Human Services has reviewed the 2003-2004 Annual Report of the Australian Institute of Health and Welfare and on 16 February 2005 resolved to conduct an inquiry.

Terms of reference

The Committee shall inquire into and report on how the Australian Government can better assist Australians who are adopting or have adopted children from overseas countries (intercountry placement adoptions) with particular reference to:

- 1. Any inconsistencies between state and territory approval processes for overseas adoptions; and*
- 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.*

1. Any inconsistencies between state and territory approval processes for overseas adoptions; and

There are inconsistencies across the board between states in most aspects of the adoption process:

Eligibility Criteria varies from state to state forcing some applicants to relocate states to be able to adopt.

State legislation and policies vary substantially with regards to the age of adoptive applicants, their marital status, length of marriage, number of children in the family, age of child to be adopted, number of children to be adopted, applicants health, applicants weight etc.....

Costs of lodging and processing an application – range approx \$2000 to \$9700 highest in NSW.

Adoption Legislation – each state is different – different criteria, different process, different costs.

The process – the application process, time frames, the assessment of the family, the approval of the family, the supervision of the child are yet are aspects that differ in each state.

I would like to suggest that the Standing Committee on Family and Human Services request each state to submit: copies of their legislation, procedural manuals, policies and guidelines, and their requirement for accepting and processing an application. The information could then be analysed more accurately. In the past, when such information was requested by individuals or NGOs it was not forthcoming,

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.

There are numerous inconsistencies between entitlements and costs of becoming a parent – or an adoptive parent, as well as the eligibility of becoming a parent.

Item	Biological families	Local adoptive families	Intercountry adoptive families
Welcoming a child into a family	Giving birth Costs covered by Medicare	Adoption costs covered by family	Adoption costs covered by family
Paid Maternity Leave	All	Dependant on employer Child must be under 5	Dependant on employer Child must be under 5
Paid Adoption leave	NA	Dependant on employer Child must be under 5	Dependant on employer Child must be under 5
Employment	No particular requirement	In most states adoptive parents are compelled to take 6 months off work	In most states adoptive parents are compelled to take 6 months off work
Maternity payment / Baby Bonus	All	Depending on age of child at the time of placement – some children are placed under 26 weeks	Depending on age of child at the time of placement – FEW (less than 10%) under 26 weeks – most over 6 months old.
State Government processing fees	NIL	Range from \$0 to \$3000 per application	Up to \$9700 per application
Federal Government immigration fees	NIL	NIL	\$1245.00
Government adoption subsidies	<ul style="list-style-type: none"> ◆ Medical coverage for birth ◆ Counselling services to relinquishing parents ◆ Subsidised adoption agencies ◆ Foster care for children ◆ antenatal care, ◆ birth, ◆ neonatal care 	<ul style="list-style-type: none"> ◆ Reduced application processing costs ◆ Subsidies for adopting special needs children ◆ Counselling services ◆ Subsidised and funded adoption agencies and other service providers. 	<p>Limited or non existent (varies between states) Instead of subsidies:</p> <ul style="list-style-type: none"> ◆ High application processing costs (\$2500 to \$9700) ◆ High travel / court and other in country costs ◆ No subsidised adoption agencies ◆ No subsidised

			adoption services
Immigration fees	♦ NIL	NIL	\$1245 per child
Approval process	No need for approval to have a child	Extensive educational and approval (at prospective parents expense)	Extensive educational and approval (at prospective parents expense)
Licensed agencies	NA	NSW – yes VIC – yes QLD – no SA – no TAS – yes ACT – no NT- no WA - In all states local adoption agencies are subsidised by the state welfare departments	NSW – no – AFC has been seeking licensing for 20 years – no provisions in place yet. VIC – no – agencies that have attempted to apply found themselves facing ongoing bureaucratic obstacles. QLD – no – QLD Welfare department made it known that they will not allow any agencies to become accredited. SA – no – only licensed agency, recently had it's license revoked. TAS – no – low numbers not viable ACT – no – too small – not viable NT- no – see SA WA – no – current criteria requires the minister to call for expressions of interest before applications for accreditation can be accepted
Police clearance	NA	\$185 per application (Normally 2-3 times per child placement) Note: free for criminals	\$185 per application (Normally 2-3 times per child placement) Note: free for criminals
Overweight	NA	Not allowed to adopt in some states	Not allowed to adopt in some states

Other matters that need to be investigated and addressed:

- ♦ **The Role of the Federal Attorney General Department** as the primary central authority in Australia

In 1998 Australia ratified the **Hague Convention 33: Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption** – despite grave concerns expressed by the adoption community and representations made to the *Joint Standing Committee on Treaties in 1998*. (see report 15 and related submission – to date few of the recommendations made by the committee have been implemented).

<http://www.aph.gov.au/house/committee/jsct/reports/report15/report15.pdf>

The Committee should also review the reports from the Hague Secretariat re Convention and Australia participation in the preliminary and subsequent discussions (this will enlighten the Committee as to the attitude of those involved in the ratification of the convention – these reports should be available from the Federal Attorney General).

http://www.hcch.net/index_en.php?act=conventions.publications&dtid=3&cid=69

The Federal Attorney General was appointed as the Primary Central Authority for Australia, however they delegated all the responsibilities for administering the program to each state welfare department. See Commonwealth / State Agreement

<http://www.australiansadopt.org/CommonwealthStateagreement.pdf>

This has resulted in a very fragmented system – no clear guidelines, no documented protocols, the states claim they need federal approval and involvement to establish programs and liaise with foreign bodies, the federal government does not even have one full time position assigned to attend to intercountry adoption matters. In addition, legislation in each state differs – resulting in different criteria for applicants and children.

Any state issues that come up and are referred by NGOs to the Federal Attorney General, are dismissed and referred back to the states. There is a total lack of community consultation, an apparent conspiracy to exclude NGOs from delivering adoption services, and an obvious lack of commitment by both the Federal Government and the states to develop the program and assist family building through adoption.

- ♦ **Accreditation provisions for NGOs** – The Hague Convention clearly provides for Accreditation of NGOs to provide a range of intercountry adoption services, however in Australia the legal provisions for accreditation differ in each state, and the only accredited body in Australia (South Australia) has its license withdrawn in March 2005.

State legislation and policies are making it increasingly difficult for NGOs to secure accreditation. For example – in NSW – Australian Families for Children has been seeking licensing since 1981, and accreditation since 1998 for the services it provides – to date no progress. The accreditation provisions are yet to be proclaimed in the Adoption Act 2000, notwithstanding the fact that the Act itself was proclaimed in 2003 (accreditation provisions were excluded), in December 2004, the NSW Central Authority advised NGOs of a change in requirements – which will make it impossible for any NGO to secure accreditation, in particular in the absence of seeding funds. After 25 years of trying to secure a license or accreditation, NGOs like Australian Families for Children may be forced to fold and discontinue its services due to the constant obstacles being

placed by the States and the total apparent disinterest by the Federal Attorney General – the Commonwealth Central Authority. (The Committee should review the submissions, concerns and recommendations made by the Joint Standing Committee on treaties in 1998 – see above)

We recommend that the Federal Government develop a National Accreditation Mechanism to accredit NGOs able to deliver adoption services as their primary service, and provide funding for such NGOs to establish themselves and provide professional services to families.

We would also recommend that the Committee reviews developments and other convention countries such as Sweden, France, Spain, Italy, Canada etc.... – where a large number of NGOs have been accredited.

http://www.hcch.net/index_en.php?act=conventions.authorities&cid=69

♦ **Countries from which Australians can adopt** – less than 400 children were adopted by Australians in 2003-2004 – in contrast, over 20,000 were adopted by American families, and a similar number of adoptions took place in Europe, this is a direct result of State and Federal government attitudes, barriers and obstacles placed at every stage of the process, unaffordable costs, absence of NGOs to facilitate the process, lack of interest on the part of the Central Authority (which does not even have ONE full time staff member administering the program).

1. New Zealanders have been adopting from Russia for years – Australians can't – why?
2. Australia has decided that adopting children from non-convention countries is not acceptable – why? Is the adoption program not meant to benefit the child – no matter which country the child is from?
3. State welfare departments claim that there are not enough children – hence the waiting list in Australia are so long – why then are there over 40,000 + children adopted internationally each year? And only 400 arrive in Australia?

USA statistics can be found - <http://www.holtintl.org/ins.shtml>

We recommend that the Federal Government remove the role of negotiating program from the states (whose priority is children within their state) and allow NGOs participation in the process.

♦ **Australia's position on refugees** – in view of the recent Australian and Global community outcry following the Tsunami disaster – we call on the government to lift and remove its reservation of excluding refugee children from being included under the Hague Convention in any adoption program (to my understanding Australia is the only country with such a reservation)

http://www.hcch.net/index_en.php?act=status.comment&csid=40&disp=resdn

Declarations

Articles: 22,25,45

1. (...)
2. (...)
3. Pursuant to Article 22.4 of the Convention, Australia declares that children habitually resident in all territorial units of Australia may be adopted only by persons resident in the countries where the functions of the Central Authority are performed by public authorities or bodies accredited pursuant to Chapter III of the Convention.
4. Pursuant to Article 25 of the Convention, Australia declares that it will not be bound to

recognise adoptions made in accordance with an agreement concluded in accordance with Article 39, paragraph 2.

5. Pursuant to Article 45, Australia declares that the Convention shall extend to all the territorial units of Australia.

6. Australia further declares that, while Australia accepts the obligations imposed by the Convention in its application to refugee children and children who are internationally displaced as a result of disturbances occurring in their country of origin, Australia does not accept that it is bound by the Recommendation in respect of refugee children made in October 1994 by the Special Commission on Implementation of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption.

We would like to note that we welcome this inquiry and hope that it can achieve a positive outcome for intercountry adoptive parents and children, as well as for NGOs committed to delivering services to such families.

Should you require further information, please do not hesitate to contact us.

Kind regards

A handwritten signature in black ink, appearing to read 'Ricky Brisson', with a stylized flourish at the end.

Ricky Brisson (Mrs)
Executive Director
Australian Families for Children