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SUBMISSION NO. 173
AUTHORISED: 1-6-05

Re: Commonwealth Parliamentary inquiry into adoption of children from overseas

Overview

Terms of reference

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

   Each state and territory in Australia has its own adoption laws, policies and practices, which vary greatly in content, implementation and effect. The adoption authorities in some states and territories, such as the Australian Capital Territory (ACT) and Tasmania, seem currently to be genuinely supportive of adoption as a way of helping children in need of a permanent family. They have put in place fairly broad criteria for adoption applicants, low fees and a collaborative working relationship with the non-government adoption sector, without compromising the best interests of children. Other states, such as Western Australia (WA), have put in place a system that seems autocratic and often prevents needy children from being placed in willing and able WA families. The WA system claims a monopoly on the right to give information about adoption to those expressing an interest in adoption, seems to control the non-government sector, particularly through inequitable funding and outsourcing of adoption services and has seemed to use its power to remain the sole authorised adoption agency in WA. Many in WA see this as a way to control the number of intercountry adoptions.

   Consistency, or uniformity in adoption systems, is only desired if it can guarantee that everybody in Australia will have access to a supportive, equitable adoption system that is based on the principle that adoption is a positive option for children in need of a family, a principle based on compassion, common sense and empirical research. The Australian adoption authorities largely hold the view that adoption is the option of last resort, despite empirical research findings from around the world showing clearly that adoption is the most positive long term option for children in need of a family. As long as this type of negative view on adoption prevails, the number of intercountry adoptions to Australia is unlikely to increase.

   The adoption authorities of all the Australian states and territories meet regularly, seemingly in an effort to achieve consistency in adoption law, policies and practices across the nation. To date, the outcomes show an increase in the number of restrictive adoption measures adopted by more states and territories, instead of an increase in facilitative service provision. The recent closure of the only intercountry

adoption agency in Australia, the Australians Aiding Children Adoption Agency in South Australia (SA), appears to follow the trend of more government control over intercountry adoption. Especially since the August 2004 report on this agency's provision of service for children and families in SA was viewed as highly acceptable.

Adoptions International of Western Australia (AIWA) has concluded that, although the current variety of adoption systems across the nation are challenging to work with, at least some of the Australian states and territories operate a genuinely supportive adoption system, giving people from other parts of Australia the option of moving to these adoption friendly states and/or territories. At this point it is AIWA's view that a variety of adoption systems is therefore preferable to a nationally consistent system which might be grossly under resourced like Queensland and/ or very expensive like New South Wales (NSW).

Adoptions International of WA recommends that a nationally consistent system only be adopted if it is guaranteed to be adoption friendly, allowing the broad range of children in need of a family to be adopted by a broad range of suitable, able and willing families in each state and territory.

2. **Any inconsistencies between the benefits and entitlements provided to families with birth children and those provided to families who have adopted children from overseas.**

When family benefits and entitlements are discussed and developed in the Commonwealth Parliament, adoption rarely if ever rates a mention or consideration. A significant part of the problem is that adoption is seen and treated as a state and territory issue, rather than a national one. The Commonwealth Parliament failed to take the opportunity to develop a uniform national adoption system in 1998 when it ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and transferred the responsibility of implementation to the states and territories. Consequently, the level of awareness of how Commonwealth decisions affect adoptive families remains virtually nil, unless a Member of Parliament is personally affected and choses to speak out on it.

The Federal government's lack of insight into adoption at Commonwealth Parliament level has resulted in benefits and entitlements being designed only for people who have children through birth, with eligibility criteria that usually prevent adoptive families, particularly intercountry adoptive families, from accessing the benefits.

At the Federal Government level there appears to be complacency about increasing state and territory intercountry adoption fees, the collection of its own intercountry adoption fees through the ever increasing adoption visa fee, and lack of tax concessions for adoption expenses.

Adoptions International of WA recommends that the Australian Government adopts an Adoption Watch attitude to ensure that all its decisions are adoption friendly and lead to better assistance for Australian residents who are adopting or have adopted children, be it locally or from overseas countries.

There is an urgent need for the sponsoring of empirical research on all aspects of intercountry adoption in Australia, and for more recognition of international research findings, both positive and negative, to enhance decision making by all

stakeholders and interested parties. Meta-analyses of intercountry adoption studies from around the world, including Australia, can be accessed from the website of the adoption research centre at the University of Leiden www.adoptionresearch.nl.

Introduction

Adoptions International of Western Australia (AIWA) is a non-profit adoption NGO, entirely staffed by volunteers providing professional pre- and post- adoption services. AIWA strongly advocates for children in need of secure and loving families. It was set up in 1995 by a group of professionals from within the Western Australian adoption community, concerned about the pending demise of intercountry adoption in this state. The specific purpose for AIWA was to become a licensed and accredited intercountry adoption agency, thus ensuring that children in need of a family could still be placed for intercountry adoption in Western Australian families.

AIWA congratulates the Standing Committee on Family and Human Services for its initiative to hold an inquiry into intercountry adoption in Australia, to see how the Australian Government can better assist Australians who are adopting or who have adopted children from overseas countries. As the number of intercountry adoptions to Australia has remained low, compared to the significant increase in the numbers of orphaned and abandoned children worldwide and the number of intercountry adoptions of these children to other parts of the world, AIWA believes this inquiry is long overdue.

AIWA stresses that the key foundations of its submission are, firstly, the preliminary statement in the United Nations Convention on the Rights of the Child that every child has the right to grow up in a secure and loving family environment. Secondly, the statistical evidence, from reports such as the Children on the Brink 2004 published by UNICEF, that the global number of orphans continues to rise, estimated to reach a total of 200 million by 2010 in Asia, Africa and Latin America alone. At least 10 percent of these children will have lost both their mother and father. In 2003 alone another 6 million children in these regions became orphans (see publications section on website www.unicef.org).

AIWA wishes to stress that it does not consider intercountry adoption to be for the purpose of finding and providing children for nations concerned about their declining birth rates, nor is it about finding children for families. Intercountry adoption is about finding families for the many children in the world who are in need of a secure and loving home.

Considering that there are millions of orphaned and abandoned children worldwide, why has the number of intercountry adoptions to Australia and Western Australia (WA) remained so low?

Speaking for WA only, AIWA is of the view that the numbers have remained low, because firstly, the WA adoption authority considers adoption to be the last resort, even for children languishing in institutional care. Secondly, despite constantly stating that it is acting in children's best interests, the WA adoption authority refuses to take on any humanitarian responsibility for children in overseas countries waiting for a family.

Since 1995, the number of intercountry adoptions to WA has slowly increased again, thanks to the ongoing pressure from AIWA on the WA adoption authority to either facilitate the intercountry adoption of needy children in overseas countries, or to outsource the task to AIWA. The WA adoption authority seemed to have chosen to

improve the efficiency of its intercountry adoption service delivery judging by the number of adoption finalisations reached last year; 44, an almost five-fold increase since 1994-95, but still far short of the 77 in 1984-85. See table 1.

Financial year	local adoptions	intercountry adoptions
1984-85	293	77
1994-95	26	9
2003-04	3	44

Table 1. Number of non-relative local and intercountry adoptions to Western Australia

The current numbers are also still very low considering the number of programs open to Western Australians. The number of programs increased six-fold following Australia's ratification of the Hague Convention on Intercountry Adoption in 1998. It currently stands at 70 countries, consisting of 6 bilateral agreement programs and 64 countries that have ratified or acceded to the Hague Convention on Intercountry Adoption. Of all these available programs only about 10 are active in WA.

Following is a brief summary of issues which AIWA sees as significantly contributing to the low number of intercountry adopted children joining WA families. The points raised under the first term of reference focus entirely on intercountry adoption in WA to enable the Standing Committee to gain deeper insight into the issues that confront families and children in this state.

Term of reference 1

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

There are many differences between the adoption laws, policies and practices across Australia, resulting in different eligibility and suitability criteria. AIWA will list only some that have had a significant impact on adoption applicants and families in WA, highlighting inconsistencies within WA as well as between WA and other states and territories in Australia.

Eligibility criteria

Eligibility criteria for adoption applicants include age of applicants and children, type of children already in the family, marital status and length of that status, relatedness, and citizenship.

WA residents, who were ineligible under WA adoption laws, are known to have moved to other states and to have subsequently been successful in providing a secure, loving home for one or more intercountry adopted children.

Age of applicants

Although the age criteria for adoption applicants in WA were broadened in 2004, applicants are still confronted with arbitrary age criteria, based on the notion that older parents are not good enough. Distinction in age is also made depending on whether the to-be-adopted child is the first or subsequent child adopted jointly by the applicants. For a first adopted child the maximum allowable age difference between the prospective adoptive child and the younger prospective adoptive

parent in a couple, is 45 years, and 50 years between the child and the older parent. For a second or subsequent adoption the maximum allowable differences are 50 and 55.

The distinction between having adopted and non-adopted children is particular to WA and has resulted in deliberate discrimination between birth and adoptive families. For families who have non-adopted children the same lower age criteria apply as for childless applicants. The combination with the requirement that the newly adopted child must be at least 12 months younger than the youngest child already in the family has resulted in potentially good adoptive parents being ineligible to apply for adoption in WA. The following case study illustrates the problem encountered by non-adoptive families:

Parents' age	Age of child already in family	Child status	Applicable Age criteria	Age of child eligible to adopt	Adoption application
42 & 51	1 yr	birth	45 & 50	1 yr old & over	rejected
42 & 51	1 yr	adopted	50 & 55	from 0	accepted

Applicant couples, in which one is already an adoptive parent through a previous marriage, are still considered to be adopting their first child and the lower age criteria are applied.

Age of children

Many of the children in overseas countries waiting for an adoptive family are older children and/or part of a sibling group. The WA Adoption Authority asserts that the vast majority of adoption applicants only want to adopt very young children. AIWA has found however that a significant number of applicants are interested in adopting older children or sibling groups, but are in various ways discouraged and prevented from doing so by the WA adoption authority.

Firstly, the legal requirement in WA that the newly adopted child or children must be at least 12 months younger than the youngest child prevents families with younger children from adopting older children. The WA Adoption Authority are known to have refused to accept allocations of older children and sibling groups sent by the overseas adoption authority or agency, and returned the files to the country or origin, because the allocated children were less than 12 months younger than the youngest child in the family or were older that the youngest child. The family concerned is usually not told about the allocation and is thus denied the opportunity to advocate for the allocated children. We do not feel this is in the best interests of the children.

Secondly, it is the WA adoption authority's policy to prevent intercountry adoptive placements of children aged 6 years and over from taking place, citing inflated disruption statistics and negative outcomes to justify its position, while ignoring reassuring local, national and international research findings. This position discriminates against the majority of waiting children, applicants who specifically request to adopt older children and older applicants who are only eligible to adopt older children. AIWA does not believe the age cap for adopting children is in the best interest of children.

Thirdly, throughout the compulsory preparation for adoptive parenthood education process the WA adoption authority is inclined to focus on negative aspects that a

small proportion of intercountry adoptive families do experience. It also focuses on the expectation that adoptive families provide cultural and ethnic continuity to their adopted children. Combined with its overstating of disruption statistics, adoption applicants feel discouraged from persevering with the initial intention to apply to adopt older children and/or a sibling group. AIWA totally agrees that adoption applicants need adequate pre adoption education as part of the preparation to become adoptive parents, but is concerned about the tendency to have it turn into a scare campaign against the adoption of older children. Again, AIWA feels that all aspects of adoption should be given equal merits so that the best interest of children can always be considered.

Fourthly, the current trend in approvals by the WA Adoption Applications Committee suggests that approval to adopt sibling groups and children aged 4 years and over, are becoming very rare. Also over the last 12 months, several families who were initially approved to adopt older children and sibling groups have had their approval downgraded to a young single child. AIWA continues to wonder how this is in the best interest of the children who are waiting for a home to call their own.

Finally, approving adoption of young children only creates growing pools of applicants waiting for young children, instead of applicants for the growing number of older children who are waiting. This again contributes significantly to the low number of intercountry adoptions to WA. Ethiopia, the Philippines and Thailand, are examples of countries that have clearly stated a preference for applications for older children and sibling groups. WA applicants, who indicated a willingness to adopt older children and /or sibling groups, but only received approval from the WA Adoption authority to adopt a single young child, are sometimes forced to wait in a queue for months if not years, before their application can be sent to the chosen country and face another long wait before a young child is allocated. They are forced to ignore the plight of the waiting older children in those countries. Those applicants who express frustration at the delays forced upon them, are encouraged to change to China, a program currently favoured by the WA adoption authorities because it is highly streamlined and uncomplicated, and places mostly young children. Although the waiting children in China are also deserving of an adoptive home, what about the interests of children waiting in countries such as Ethiopia?

Many of the countries make lists of waiting children available to adoption applicants and agencies. Adoption applicants in WA are however not given permission to access or choose children from these lists. The only list ever freely shared with applicants was from a program that deals with acute special needs children which would not pass Australian Immigration criteria.

The above raised issues indicate that the WA adoption authority uses its sole decision making power to ensure that there are virtually no WA adoption applications for older children and sibling groups sent to overseas countries. As a result, WA applicants are forced to wait a long time for the allocation of children that meet the preference of the WA adoption authority, not necessarily that of the adoption applicants, and certainly not that of most of the overseas countries.

To add "insult to injury", these waiting times are in turn used by the WA adoption authority as confirmation of its position that "there are many more adoption applicants than children available for adoption", making sure to stress this "fact" to adoption applicants throughout their adoption process.

The above points beg the question: is the WA adoption authority really acting in the best interests of the children in need of a family or is there another agenda of which the public is unaware?

Marital status

WA couples need to have been married, or have lived in a de facto relationship for at least 3 years before being eligible to apply for adoption. Single persons can also apply. However, if a single person has started the adoption process, and marries a person without having lived in a de facto relationship before a child is placed or the adoption is finalised, the adoption process is put on hold until the couple has been married for 3 years. Adoptions International of WA feels this puts a poor light on marriage and could encourage applicants to put off marriage in order to not delay their adoption plans.

Relative intercountry adoption

WA is the only state where adoption of a relative child is prohibited. Not to be confused with step parent adoptions which are discouraged, but still allowed in some cases.

Migrant families in WA can not adopt a relative child living overseas, even if intra-familial adoption is the cultural norm within that family. Of the three types of entry visas for children, the adoption visa is usually provides the only way an overseas relative child, with living relatives in the country of origin, can gain entry into Australia and the permanent care of his or her migrant family members. This applies also to children affected by natural disasters such as the recent tsunami in Asia and man-made disasters such as the war in Iraq. As adoption visas are only issued to approved adoption applicants, denying the option of applying for approval to adopt a relative child makes kinship care virtually unachievable for migrant families in WA. This is in stark contrast to local adoption in WA, where birth parents who wish to place their child for adoption with non-relatives, are put under a lot of pressure to place their child in kinship care with relatives, instead of adoption with non-relatives.

The WA adoption authority blames restrictions imposed by immigration legislation for the disadvantage suffered by migrant families. However, the Department for Immigration and Indigenous Affairs says it cannot issue an adoption entry visa for a relative child without approval from the WA adoption authority. To date nothing constructive seems to have been done to overcome the migrants' disadvantage.

Migrants adopting from country of origin

Migrants and their descendents interested in adoption express the wish to adopt from their families' countries of origin, especially if the countries concerned are known to have large numbers of orphaned, abandoned, institutionalised and refugee children, and have active intercountry adoption programs with other countries. In the vast majority of cases WA does not have an active program with the country concerned. If, in addition, the country has not joined the Hague Convention on Intercountry Adoption, the WA adoption authority will not process the adoption application. Considering the enormous emphasis currently being placed on cultural and ethnic continuity for intercountry adopted children, the refusal by the WA adoption authority to support such adoptions is incomprehensible. In the case of refugee children, even if the country has joined

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the Hague Convention on Intercountry adoption, adoption would not be possible because of the embargo on the adoption of refugee children Australia placed at the time it ratified the ICA Convention in 1998. Australia is the only country to have done so.

Australian citizenship

There seems to be some consistency across Australia in the requirement that an adoption applicant must be an Australian citizen. This requirement is argued to be necessary on the grounds that an intercountry adopted child is at risk of being rendered stateless by the adoption and must therefore be guaranteed to have access to a nationality. As adopted children generally take the same citizenship as the adoptive parents, adoption by citizens of other countries residents in WA does not seem to cause any problems for the children. However, the requirement for Australian citizenship prevents legitimate permanent residents and temporary residents in WA from applying for intercountry adoption, even if they decide to apply through their country of citizenship, because the WA adoption authority refuses to undertake the home study assessment an applicant needs under the international guidelines set out in the Hague Convention on Intercountry Adoption.

WA residents, who were deemed ineligible to adopt under WA laws because of above listed issues, are known to have moved to other states and have subsequently been successful in providing a secure, loving adoptive home.

Suitability criteria

Suitability criteria for adoption applicants are a more subjective set of criteria based on the assessment by the relevant adoption authority on whether applicants are considered to present no or few risks for the prospective adoptive child's protection, health and well-being. These criteria include stability of marriage or relationship, financial security, physical and mental health, motivation for adoption, parenting skills, competence and commitment to continue the cultural and ethnic links of adopted children, including the child's birth name, presence of and access to family and friends support network, and ability and willingness to ask for help.

Although most of the above criteria seem to be reasonable for the sake of a child's safety and security, adoption applicants are completely dependent on the views and perception of the assessor appointed by the WA adoption authority to undertake the assessment and make recommendations to the WA Adoption Applications Committee. It is not known how much consistency there is among states and territories, but the subjective nature of most of the suitability criteria makes them vulnerable to personal views on intercountry adoption held by assessors and members of the Adoption Applications Committee. AIWA has found that many adoption applicants have experienced suitability criteria as even more challenging to deal with than eligibility criteria, largely because of the intangible nature of perceptions and the difficulty of challenging allegations of risks applicants consider unjustified.

Motivation to adopt

AIWA firmly believes that people who wish to adopt need to go through a quality screening process to improve the chances that children placed for adoption will be loved and nurtured by their adoptive family. However, as there are neither perfect

parents, nor perfect children, no assessment process will ever be able to find perfect adoption applicants.

Every adoption applicant comes to adoption for a unique set of personal, and in the vast majority of cases, positive reasons. In WA, applicants generally complain of being treated with suspicion by the adoption authority, suspected of having questionable selfish motives and being potential child traffickers from which children need protection. Applicants can plead their individual case during the adoption assessment, and if able to convince the assessor and the Adoption Application Committee of their innocence, are likely to become approved applicants.

The WA adoption authority justifies this intense screening approach by claiming this is in the best interests of children. One will never know how many capable families are not allowed to adopt and therefore how many children needing a family are disadvantaged. However, it is clear that treating adoption applicants with more respect and less suspicion would be a more conducive way to help applicants become competent adoptive parents.

Continuation of child's cultural and ethnic links, including retention of birth name

There is some consistency around Australia at present in the requirement for adoptive parents to commit themselves to continue the adopted child's cultural and ethnic links, starting with retaining the child's first given name. These fairly recent legislative changes nation-wide have generated, and continue to generate a lot of debate about whether they indeed are in the best interest of intercountry adopted children. The main issue for AIWA is that these legislative changes are predominantly based on anecdotal evidence from a small group of local and intercountry adoptees, who arrived and lived in Australia at the time Australian society had only just started to actively address and dismantle the "White Australia" policies and mindset. Although racial discrimination remains a reality in virtually every society, including Australia, Australian society has become a melting pot of people with different cultural and ethnic backgrounds from all over the world. How realistic and important for the adoptees long term well-being is this demand placed on adoptive families? Qualitative and quantitative research on ethnic and cultural issues among intercountry adoptive families and adoptees has started to be undertaken around Australia, with one major study on the wellbeing and identity of adopted and non-adopted migrants currently being undertaken in WA. Until the findings of these studies are pooled and considered, the requirement for adoptive parents to continue their child's cultural and ethnic links seem arbitrary and could prevent otherwise suitable adoption applicants from providing a loving family to a waiting child.

Applicants living beyond the Perth metropolitan and other large regional areas seem to be even more disadvantaged by the required commitment to continue the adopted child's established cultural and ethnic links. Applicants' acknowledgement during the assessment process that distance will make ongoing networking with adoptive families and relevant ethnic communities a challenge, puts them at risk of not being approved for intercountry adoption, even though there are no empirical research findings in Australia to date that show being brought up in the country negatively affects the well-being of intercountry adopted children.

Disadvantage of living beyond the Perth metropolitan area.

Adoption applicants who live outside the Perth metropolitan area are also disadvantaged in other ways. Applicants are expected to attend information and education sessions in person. Those applicants who live a considerable distance away, have thus the added costs of travel and accommodation and loss of income for the days off work. Although meeting others who are going through the process promotes the establishment of an important peer support network, for some country applicants the extra costs inhibits continuation or even the starting of the adoption process. Those who persevere with the process are often faced with extra delays caused by a lack of readily available government appointed adoption assessors in country areas. The chance of eventually being assigned an inexperienced and/or overburdened child protection officer from the regional office of the Department for Community Development, instead of a professional contract assessor, increases the risks of a poor quality assessment report being presented to the Adoption Applications Committee. This in turn is more likely to lead to being declared unsuitable to adopt, or to only be granted a very restricted approval.

Equal Opportunity

Adoption applicants in WA who consider they are, or have been, treated unfairly have had their access to recourse under Equal Opportunity legislation removed in 2001. Ironically, it was removed through the same Bill that gave equal adoption application rights to both heterosexual and homosexual couples. The government's stated justification for the removal of equal opportunity rights for all adoption applicants reads as follows:

> *"We are going one step further and saying that if people feel that they are being discriminated against because of their sexuality or for any other reason, they cannot use a technicality to go to the Equal Opportunity Commission to argue that they are being discriminated against because they were not allocated a particular child. So important is the welfare and the interests of the child that we do not want decisions made in the interests of the child subject to review in the Equal Opportunity Commission, and we will be moving that amendment in this legislation."* (Legislative Assembly Hansard records, 5 December 2001, p. 6467).

The removal of a disadvantage suffered by a very small and select group of adoption applicants, has been dearly paid for by all adoption applicants, including the selected group. The right to protection of equal opportunity in adoption has been removed for all, purportedly "in the best interest of the child", but in the absence of any supporting research evidence it seems more likely that equal opportunity legislation was changed to keep the number of adoptions allowed in WA low.

Fees and Charges

One of the major issues in adoption in Australia, both local and intercountry, is the inequity in adoption costs and fees charged across the nation. The differences and inequities within and between states are already well documented. AIWA will therefore focus more on what happens in WA.

In WA, as in other states and territories, fees are charged for intercountry adoption, whereas local adoption applicants face minimal fees. The adoption authority justifies this difference on the basis that it only claims responsibility for the protection and welfare of children living in WA, not for those living outside WA. Being able to apply for intercountry adoption is therefore treated as a privileged service that has to be purchased. As the WA adoption authority is the only agency allowed to provide this service, applicants have no choice in service providers.

Although the WA fees for intercountry adoption are not as high as those charged in some of the other states, the total costs prevent many people in WA from even considering intercountry adoption. This makes intercountry adoption exclusive and adds to the general perception that intercountry adoption is only about finding and providing children for wealthy parents. When added to the often repeated statement by the adoption authorities that there are many more adoption applicants than children available for adoption, it is understandable that many of those interested in adoption do not pursue it further, that involuntary childless couples continue years of futile, but subsidised reproductive technology treatment, and that the number of intercountry adoptions remain low.

As intercountry adoption involves payment of fees, the shadow of child trafficking is always present. Its centre stage placement in the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, although meant well, has appeared to lead to the overstating of the issue by the WA adoption authority. This is manifested, for instance, in its treatment of all adoption applicants as potential child traffickers and its refusal to work with many of the available programs. The child trafficking shadow does however not stop the WA adoption authority from demanding payment from applicants for the compulsory adoption process services they can access nowhere else. No payment to the WA adoption authority, no adoption. AIWA would like to make it clear that it does not object to an equitable system of adoption fees and charges, but objects to what seems to be a double standard applied by the adoption authority in its intercountry adoption service provision.

Post adoption services

Both informal and professional post intercountry adoption services in WA have always been provided voluntarily by the intercountry adoption NGOs. The WA adoption authorities have stated in the past that they consider these services to be the responsibility of the adoptees' countries of origin. The strong and supportive intercountry adoption network that has been operating in WA for 30 years continues to this day. AIWA is justifiably proud of its record in providing post adoption services since its establishment in 1996, despite lack of recognition and support for the service from the WA adoption authority. This lack of recognition may however force AIWA to close this valuable service, in sharp contrast to the two NGOs in WA that provide post local adoption services. They have enjoyed full recognition and received millions of dollars of funding from the WA adoption authority for the last 20 years or so, with no signs of being forced to close down.

Funding and outsourcing

There are 5 non-government adoption organisations in WA. Among these, AIWA is the only one that specialises in providing professional intercountry adoption services. It is staffed by volunteers and largely relies on donations and a small fee

for service system to fund its operations, but maintaining financial self sufficiency continues to be a big challenge. This is largely due to the fact that the WA adoption authority has continually and deliberately denied giving AIWA preferred service provider status thus preventing it from accessing formal funding and contract work outsourced by the adoption authority. As the WA adoption authority holds the monopoly on adoption service provision and the full power to decide who can and can not provide adoption services, it has been very effective in depriving AIWA of developing financial viability. In fact, it has gone to great length to prevent AIWA from gaining financial sustainability through imitating adoption resources developed and marketed by AIWA. The WA adoption authority has justified these actions on the grounds that it considers itself to have the exclusive responsibility and right to provide adoption information to the public and those interested in adoption. Why is there such seemingly unfair treatment of AIWA as opposed to the other non-government organisations? AIWA believes it is because AIWA supports adoption as a service for children in need of a loving and stable home. AIWA shows clients that adoption is a positive option for children who are orphaned, homeless or living in institutions. Most of the other organisations that receive funding and are in good favour with the WA adoption authority focus on the negative aspects of adoption. Our clients often come to us stating how guilty they are made to feel when inquiring about the option of adoption.

Licensing and accreditation of adoption NGO

AIWA was established in 1995 from within the intercountry adoption community in WA for the purpose of becoming a licensed and accredited adoption agency. The reason for this initiative was the growing decline in intercountry adoptions from the mid 1980s, resulting from a growing bias against adoption Australia-wide.

For reasons never explained, the initial positive response by the WA adoption authority to the establishment of AIWA and its proposed application for licensing and accreditation quickly changed to total opposition to AIWA's proposal. For nearly 10 years AIWA and its dedicated group of volunteers have battled against a campaign of undermining, disrespect, ostracism, and innuendo implying that AIWA was a self-serving, profiteering organisation providing unreliable services. Applicants received subtle warnings that they better stay away from AIWA if they wanted to achieve an adoption. Against all these odds AIWA managed to lodge 2 applications for licence and accreditation.

The first one was lodged in 1996. It was a drawn-out application process, during which AIWA provided over 500 pages of documentation, including operation and procedures manuals that the WA adoption authority did not even have itself. The refusal to grant AIWA a licence was received in March 1999 around the same time as the WA government changed the adoption legislation to include the Hague Convention on Intercountry Adoption which Australia had ratified only a few months earlier. Although key aspects of this Convention are the facilitation of intercountry adoption and its guidelines for the accreditation of non-government adoption organisations, WA's haste to include it in the state's adoption legislation turned out to be for opposite reasons, namely tightening intercountry adoption rules and preventing AIWA from becoming an accredited adoption agency.

In 2001 AIWA again started the application procedure to become a licensed and accredited adoption agency. It took nearly 2 years to receive the application form.

In March 2003 further changes to the WA adoption legislation removed the right of NGOs to apply for an adoption agency licence and accreditation. However, just before the changes came into effect in June 2003 and against the wishes of the WA adoption authority, AIWA lodged its 2nd application. This application is still under consideration by the Minister for Community Development, but the chances of gaining approval seem to be virtually nil. This has become more evident since the recent closure of the only licensed and accredited intercountry adoption agency in Australia, the Australian Aiding Children Adoption Agency (AACAA), by the South Australian government, for no apparent valid reason. As AACAA consistently arranged at least twice as many intercountry adoptions as the WA adoption authority, its closure is an example of achieving uniformity at the expense of providing children with families.

The most obvious advantage of having a self sufficient licensed and accredited adoption agency in WA is the capacity to increase the number of intercountry adoptions to WA without any costs to the WA adoption authority. It seems however that the WA adoption authority is determined to remain the only authorised adoption service provider in WA, having done, and continuing to do everything in its power to prevent AIWA from becoming a licensed and accredited adoption agency. As a result AIWA will probably be forced to close down and a rare and valuable service will be lost to the WA adoption community and others interested in adoption matters. The adoption authority's claim that its actions are necessary to protect the best interests of children is starting to have a hollow ring to it.

Terms 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.

Having children by birth, and attempts to have children by birth through assisted reproductive technology programs, are highly subsidised and supported by the Australian governments. As adoption and birth are equally valid ways of family formation and growth, families who have children through adoption should receive comparable support. Since this is not automatically so seems to indicate that the Federal Government is unaware of adoption and adoptive families or does not value adopted children and their families.

Assuming that the inconsistencies are the result of unawareness rather than bias against adoption, this problem can easily be addressed if all Members of Parliament actively raise their responsiveness about the existence of adoption in Australia. They can do this in various ways. They can take the initiative to reach out to adoptive families in their electorate, by inviting constituents to contact them about adoption issues, and by attending some of the many adoption events and activities that take place locally around Australia. The Federal government can also declare an annual adoption day, week or month.

In the meantime, adoptive families Australia-wide are still confronted with the reality that they do not have the same access to benefits non-adoptive families take for granted.

Maternity Allowance / Baby Bonus

To be eligible for this federal government benefit, the adopted child must be in the care of the parents within 26 weeks of birth. This is rarely achieved in intercountry adoption. When this benefit was first launched in the mid 1990s only families who had a child come into their care within 13 weeks of birth were eligible. AIWA made Federal MPs in WA aware that the benefit's eligibility criterion was excluding virtually all adoptive families and requested that an exemption to the age criterion be granted to adoptive families. The resulting increase in age of the child from 13 to 26 weeks, proved hardly sufficient and most adoptive families continued to be ineligible. Further attempts to have adoptive families exempted from the age criterion have proven futile. Over the years, changes have been made to the size of the benefit, which currently stands at $3,000, but despite the Federal Government's awareness that the vast majority of adoptive families have remained ineligible for the benefit, nobody has bothered to change that. One wonders why. If it is the case that the Commonwealth Parliament perceives intercountry adoptive families as not needing the benefit, in other words considers them to be wealthy enough, it is hoped that this current inquiry will make the Federal government finally realise that the vast majority of adoptive parents would truly benefit from this payment. Immediate steps should to be taken to ensure adoptive families become eligible for this benefit regardless of the age of the adopted child at the time of arrival in the adoptive family.

Maternity/Paternity leave

Working adoptive parents are required by the WA adoption authority to take at least 12 months off work following the arrival of a newly adopted child. Workplace relations legislation spells out that adoptive parents have the right to up to 12 months unpaid adoption leave as long as the adopted child is under the age of 5 years at the time of arrival. This age criterion discriminates against families who adopt the older children. In some cases it may well prevent adoption applicants from considering adopting older children. As the majority of waiting children are older children, it is essential that this bias against the adoption of older children is removed immediately.

Whereas paid maternity/paternity leave is an integral part of many employment awards and workplace agreements, adoption leave is not, or is available but at a lower rate than maternity leave. These inequities need to be addressed urgently to ensure adoptive families enjoy the same entitlements as birth families.

Tax deductibility

Intercountry adoptive parents are charged a steady stream of fees as they move through the adoption process. In the past, a significant proportion of these costs were tax deductible. The extensive changes to the taxation structure over recent years removed the options of tax deductions. As a result adoption costs could no longer be deducted from taxable income. In many European countries and the USA, tax concessions are a practical and effective way the governments support adoption and help adoptive families offset adoption costs. Australia should allow it's citizens a tax deduction for adoption expenses.

Immigration visa for adopted children

The adoption visa fee, at present standing at $1,245, charged by the Commonwealth government indicates that the Federal Government has no

misgivings about making money out of adoption. This fee should be abolished forthwith.

Conclusion

Adoptions International of WA would like to thank you for taking the time to investigate adoption in Australia. AIWA is foremost concerned with the safety and wellbeing of children and feel that many more children could find warm and safe loving homes in WA.

Many of the above points represent a broad snap shot of what AIWA currently considers to be significant barriers to intercountry adoption in WA. If any further information is required, please do not hesitate to contact the AIWA office by telephone on 08 93282555, or by email AIWA@AdoptionIWAu.org.

Respectfully submitted,

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