



**Submission by International Social Service (ISS) Australia
to the Legal and Constitutional Affairs Legislation Committee**

ABN: 12 004 508 641

INQUIRY INTO THE AUSTRALIAN CITIZENSHIP AMENDMENT
(INTERCOUNTRY ADOPTION) BILL 2014

15 July 2013

Background

International Social Service (ISS) Australia is a not-for-profit, non-government organisation with over 50 years' experience providing a range of social work and legal services across international borders, with an emphasis on the rights and best interests of the child. ISS Australia is the independent Australian arm of the global ISS network, with members in over 120 countries worldwide. Two of our core services are intercountry post adoption tracing and family reunification, and intercountry kinship care assessments.

The proposed Australian Citizenship Amendment (Intercountry Adoption) Bill 2014 ("the Bill") provides for the acquisition of Australian citizenship by a person adopted outside Australia by an Australian citizen in accordance with a bilateral arrangement between Australia and another country. ISS Australia's concerns about the Bill are discussed below.

Introduction

ISS Australia acknowledges there may be benefits to facilitating Australian citizenship for children adopted from countries that are not signatories to the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption ("the Convention"). These include providing Australian prospective adoptive parents with the comfort and security of traveling with their newly adopted child to Australia on an Australian passport, and ensuring the child can access Medicare and Centrelink services upon arrival. However ISS Australia believes these benefits may be outweighed by the risks associated with finalising adoptions in non-Convention countries.

Importance of the Convention

The Convention ensures that adoptions do actually need to take place, are in the best interest of a child and most importantly are not simply responding to the needs of prospective adoptive parents. The Convention emphasises respect for a child's fundamental rights, and seeks to prevent the abduction, sale and trafficking of children. Adoptions occurring in non-Convention countries are not legally bound by the Convention's standards and safeguards, and may therefore not always be made in the best interests of the child.

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The ISS network is aware that in countries whose child protection systems have limited capacity to monitor individual cases, individuals and criminal organisations may exploit loopholes in the adoption system, for financial gain

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or other unlawful or unethical purposes. Admittedly unlawful or unethical practices may also occur in Convention countries, however the probability is higher in non-Convention countries¹ as they are not required to follow the rigorous processes required by the Convention.

Two Examples of Illegal Practice from Non-Convention Countries

ISS Australia provides international post adoption support services and is well aware of the profound impact of illegal intercountry adoptions. Recently we provided support to adoptees from Taiwan (a non-Convention country) who were adopted through a well-documented baby selling racket masquerading as an adoption agency. Approximately 26 children are believed to have been adopted from Taiwan by families in South Australia during the 1980s. The lead person behind these corrupt adoptions was a Taiwanese lawyer, Julie Chu. Allegedly, Ms Chu rented legitimate household registration documents of people she had met in public markets, then used data from the documents to formally register unrelated children she obtained by various means, as new members of these households. Ms Chu would then pass off the adults in the household as relinquishing parents of these children for intercountry adoption. The South Australian Government was unaware the adoption documents were fraudulent. Along with 37 other Taiwanese nationals implicated in the syndicate, Ms Chu has served a jail sentence for these crimes. It has left the Australian intercountry adoptees adopted through this program with no options to obtain legal birth records or the opportunity to trace or have contact with their biological parents. This can clearly have a profound impact on the adoptees' identity and their family and medical history.

Illegal activities in the intercountry adoption process can also occur within governments. For example in Cambodia (another non-Convention country), government officials were found to have issued documentation indicating the parents of a child were 'unknown', in exchange for a large fee. The apparent willingness of government officials to falsify documentation raises concerns about the government verification process in a non-Convention country.

New Country Programs

Although Australia currently has only two intercountry adoption programs with non-Convention countries, Prime Minister Abbott has indicated his Government is pursuing bilateral agreements with seven new countries, five of which have not signed the Convention. The Bill would arguably facilitate Australia opening more intercountry adoption programs with non-Convention countries. Because adoption in these countries is less regulated, the incidence of unlawful activities will likely be greater than in Convention countries. This may in turn result in further instances of unlawful or unethical intercountry adoptions, something Australia as a receiving country should, in ISS Australia's view, take great pains to avoid.

ISS Australia encourages the Australian Government to proactively seek out and establish new intercountry adoption programs, however we believe the focus should be on establishing programs with countries that have signed or are in the process of signing the Convention.

¹ Investigating the Grey Zones of Intercountry Adoption, Flavie Fuentes, Herve Boechat and Felicity Northcott 2012, page 27.

Conclusion

In ISS Australia's view the assessment of prospective adoptive parents could be undertaken more efficiently, while ensuring assessment and education standards remain of the highest quality. However we do not believe the Bill will provide significant benefits in expediting the adoption process or ensuring all intercountry adoptions in Australia are lawful, ethical and undertaken in accordance with internationally recognised standards and safeguards.

ISS Australia appreciates the opportunity to comment on the issues being considered by the Inquiry into the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014. Please do not hesitate to contact me if you require further information or comment.

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