



ADOPTIVE FAMILIES
ASSOCIATION
OF THE ACT INC

Adoptive Families Association of the ACT Inc

PO Box 1030

Woden ACT 2606

Phone: (02) 6291 4271

SUBMISSION NO. 133

AUTHORISED: 9-05-05 *Indira*

Submission to

**The Commonwealth of Australia Parliamentary Inquiry into Adoption of Children
from Overseas**

by the

Adoptive Families Association of the ACT

April 2005

Table of Contents:

Introduction – who are the AFA?

Foreword

Brief Summary

Terms of Reference #1

Terms of Reference #2

How can the Australian government better assist Australians who are adopting, or have adopted, children from overseas?

Introduction:

The Adoptive Families Association of the ACT (hereafter referred to as AFA) is an independent, non-profit and non political organisation that has been serving the ACT community since the mid 1970s. The AFA has a committee of nine members who are all volunteers.

The AFA currently has 105 member families representing the interests of both local and intercountry adoption and provides support through each stage of the adoption experience. Member families have adopted children from the following countries: Australia, Brazil, China, Colombia, Ethiopia, Guatemala, India, Korea, Philippines, Romania, Russia, Taiwan and Thailand.

The AFA has several, country specific, sub-groups:

The Kimchi Club – for adoptive families with Korean children

Club Prietenii – for adoptive families with Romanian children

Philippine Adoption Support Network – for adoptive families with Filipino children

ACT Families with Children from China group – for adoptive families with Chinese children.

“Adoption Australia” is a quarterly magazine published by the AFA which is distributed to our members and subscribers in the ACT, as well as members of ASIAC (Australian Society for Inter-country Aid for Children) in NSW, and WFA (World Families Australia) members in South Australia & the Northern Territory.

AFA volunteer members work with the ACT Central Authority (currently known as the Dept of Disability, Housing and Community Services, Office for Children, Youth and Family Support) in delivering services for prospective adoptive families by way of providing presenters at educational seminars. Our members speak on such topics as: health issues, an applicant tells, the role of AFA and other assisting organisations, openness about adoption and adoptive parent panels.

The AFA recognises that the interests of the child are the paramount consideration in adoption. The AFA supports the UN Declaration on the Rights of the Child and the Hague Convention on Inter-country Adoption.

Foreword:

The AFA asks that the Committee bears the following two important points in mind.

When doing an inquiry into children adopted from overseas, it is beneficial to consult the adoptees themselves. However, we would caution that if any adoptees lodge a submission and/or are interviewed, it be remembered that they may have experienced a very different system to that in place in Australia today. Adoptees from twenty or thirty plus years ago, most likely had a closed adoption, grew up in an era where adoptions were rarely spoken about and these children had very limited opportunities for contact with their birth culture. (For example, in the mid 1970s when Vietnamese babies were adopted into Australia, there were very few other Vietnamese faces to be seen on Australian streets). However, today in 2005, Australia is a very multicultural society and an internationally adopted child growing up here attracts far less attention than in past decades. The adopted children of AFA member families, have many opportunities to associate with other adopted children and openly celebrate their birth culture. Acknowledgement of adoption from an early age, exposure to birth culture and openness in discussion about adoption issues, all contribute to a healthy sense of self identity that is sadly not always so readily found by older adoptees.

It is sincerely hoped, that when comparing the inconsistencies between the various Australian states and territories central authorities, it is not seen as a fund raising exercise, particularly with regards to the varying state and territory fees for international adoptions. The highest adoption fee, recently imposed by NSW at \$9,700.00, is preventing many children in overseas orphanages from becoming part of loving families who reside in NSW. The inquiry should be an opportunity to ensure consistent and practical application of the adoption policies and procedures Australia-wide. The state charging the highest fees doesn't necessarily follow "best practice". Adoptive parents aren't for "milking" to raise state revenue. The myth that all families adopting are wealthy needs to be dispelled.

Brief Summary:

The AFA will attempt to cover the following topics in this submission. They are placed in no particular order.

Terms of reference 1:

- 1.01 Lack of overseas countries available
- 1.02 Disadvantaged by state of residence
- 1.03 Numbers of applicants processed between state and territories
- 1.04 Development of new country programs
- 1.05 Nil expansion of existing programs
- 1.06 Cost of state and territories central authorities' fees
- 1.07 Upper age limits of applicants
- 1.08 Age limits of subsequent adopted children
- 1.09 Health status of applicants
- 1.10 Financial capacity of applicants
- 1.11 Rights to name an adopted child
- 1.12 Attorney General's Department role
- 1.13 Sexual orientation of applicants
- 1.14 No promotion for sibling groups
- 1.15 Pre adoption education
- 1.16 Post adoption support
- 1.17 NGO's and private organisations

Terms of reference 2:

- 2.01 Paid leave entitlements
- 2.02 Unpaid maternity leave entitlements
- 2.03 Commonwealth maternity payments (baby bonus)
- 2.04 Medicare subsidies
- 2.05 Education of government employees
- 2.06 Child migration visa fees
- 2.07 Income foregone
- 2.08 Length of time taken

Terms of reference:

1) Inconsistencies between state & territory approval processes for overseas adoptions

1.01 There is a lack of number of overseas countries available to/or offered by each state/territory

1.02 Prospective adoptive applicants should not be disadvantaged in any way due to their state or territory of residence when applying to adopt. Any applicants, in any state or territory of Australia, should have the same list of countries to choose from.

1.03 The numbers of applicants processed is inconsistent between state and territories. The ACT manages to achieve a success rate of one adoption per 12,461 head of population compared to NSW with one adoption per 101,990 head of population (source: 2003-04 adoption statistics from AIHW report "Adoptions Australia" and Australian Bureau of Statistics population figures). Although numbers of inter-country adoptions may vary because of other demographic factors (i.e. differences in income sizes, education levels etc.) it is clear that it is far easier to adopt in some states/territories than in others. The ACT has been generally user-friendly for many years and it reflects in our high adoption numbers. NSW is a state with a population more than 20 times that of the ACT, yet NSW managed less than 3 times the inter-country placements adoptions ACT did. If NSW had adopted at the same per capita rate as the ACT, there would have been 540 adoptions to that state alone.

1.04 Development of new country programs. Efforts by Australian central authorities to establish programs with other countries have been limited to Hague countries, but many of these countries have few children available for adoption (a recent example is Lithuania. A great amount of time and expense would have been required to establish this program, yet it is a country with a total population of only 3 million people – very few of whom would be children available for international adoption). The majority of countries with large numbers of institutionalised children have neither the resources nor the incentive to perform the complex tasks associated with ratifying the Hague convention. Yet Australia concentrates its scarce resources establishing programs with countries in which few children are in need of a loving family. The AFA deplores malpractice in international adoptions, but contends that ratification of the Hague convention does not necessarily guarantee this – several Hague countries have been accused of malpractice. The AFA believes the scarce funding available for exploring new adoptions programs, may be better spent in a country such as Russia where it is believed up to 600,000 (six hundred thousand) children are in state care institutions. It is acknowledged that not all of those children would be available for international adoption, but say if even only 10% are, it is still 60,000 children in need of a family. Although the Russian Federation has not ratified the Hague convention, it has however signed the convention, which indicates a willingness to ratify at some later stage. Note that the Russian Federation, although not a member of the Hague conference at the time, did participate at the seventeenth session. In the case of Russia, the intention to work towards full ratification of the Hague convention has been demonstrated. New Zealand has had a viable and well regarded inter-country adoption program with Russia for many years and there are over 520 children adopted from Russia now a part of New Zealand families. Australia already has bilateral agreements covering inter-country adoption with many countries, most of which were signed before Australia ratified the Hague convention. What is preventing further bilateral agreements with non-Hague convention countries being signed?

Portugal is another interesting possibility to be explored, having ratified the Hague convention in March 2004, with a population of 10 million (2,500 of those being street children in Lisbon alone, indicating a high abandonment rate) and a desire to only deal Central Authority (CA) to CA (ruling USA families out from adopting Portugese children). The Portugese central authority only takes ten days to approve an applicant's file.

1.05 Nil expansion of existing programs. Thought should be given to extending existing programs. Korea has a number of agencies involved in the adoption of children overseas, including:

Social Welfare Society

Korea Social Services

Holt Children's Services
Eastern Social Welfare Society

Australia deals with just one of these agencies (Eastern Social Welfare Society). Although Korea has a quota for the number of children adopted overseas, as well as actively encouraging local adoption, it is possible more children might be available for adoption to Australia.

- 1.06** Cost of state/territory fees, ranging from Tasmania at \$2,052 and up to \$9,700 in NSW.
- 1.07** Upper age limits of applicants. The various state/territory central authorities set differing upper age limits on the prospective adoptive parents. AFA believes that all state/territories central authorities should just apply the limits as set by the individual overseas sending countries. This would allow for a consistent approach Australia-wide.
- 1.08** Age limits of subsequent adopted children and age gaps between adopted siblings (*one year difference in WA, two year difference in ACT*). It is a policy rule in the ACT that the second adopted child must be at least two years younger than the first child placed in the family. Birth families are not told they cannot produce a sibling for a two year period.
- 1.09** Health status (*in particular weight*) limits of applicants. Birth mothers are not told they weigh too much and therefore cannot have a child.
- 1.10** Financial capacity of applicants. In the ACT a family has been told they need to re-apply in two years time when they can demonstrate an improvement in their financial status. In the opinion of some social workers, a large mortgage on a home is viewed as being more financially secure than having a good track record in a rental property.
- 1.11** In NSW, the father's name can be added to the child's birth name. The adoptive mother's surname cannot be added to the child's name. A name that may have become a tradition within the adoptive family for generations cannot be added to the adoptive child's name. This legislation only applies to the adoption process. After an adoption is finalised in court, a family can go and change the child's name by deed poll (for a fee) the day after the adoption is complete. Why add another layer of legal process when it can be overridden a day later? Birth families are not told what they can and can't name their child.
- 1.12** Attorney General's Dept lack of involvement. Although currently Australia has one official central authority, the Commonwealth government, in reality, it appears there are eight central authorities each creating their own rules and protocols with the Commonwealth appearing to simply "rubber-stamp" their decisions. The Commonwealth government needs to become a driver of the whole process, instead of a passenger, thereby giving more consistency to the entire process.
- 1.13** Sexual Orientation of applicants. Only the WA and ACT governments allow gay couples to apply for international adoption (although as the AFA understands this, Australia does not have adoption programs with any country that allows gay couples to adopt).
- 1.14** There is resistance from state/territory central authorities' to promote sibling groups when so much research shows the value to an adopted child of having siblings who are biological relatives and from a similar birth culture. Families who adopt biological siblings, save money, time and have generally better settled children. An adopted child (when adopted in a sibling group) remains with someone familiar to them, someone they have attached to.
- 1.15** Pre adoption education. Almost all pre adoption education is compulsory at the start of the adoption journey, in the lead-up to be assessed and before gaining approval to adopt. Thereafter comes after a long wait for

allocation and even more delays until travel overseas can be commenced. Perhaps pre adoption education could be reviewed and refreshed in the final weeks before travel?

- 1.16** Post adoption support. Most state/territory central authorities' would acknowledge they could do more to assist families post adoption. This burden currently falls to various parent support groups who receive little, if any, funding and rely solely on volunteers.
- 1.17** NGOs (non-government organisations) are not given the opportunity to utilise their skills and experience to become an accredited central authority. The only example AFA has been aware of, was in South Australia where the education and processing requirements (everything but approvals) were outsourced from the SA government department. However this arrangement was abruptly terminated on 1st April 2005 without the proper consultation with the adoption and wider communities.

2) 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

2.01 **Paid Leave.** Paid maternity leave can be found in 29% of Workplace Agreements, but only 1% of those have paid adoption leave (Dept of Employment and Workplace Relations).

2.02 **Unpaid maternity leave entitlements.** Why must this unpaid maternity leave provision cut off when the child being adopted reaches the age of 5 years? No matter what age the child is when adopted, the ACT central authority insists that one parent must stay at home and be the primary caregiver for a minimum period of one year (this period is inconsistent between the different states/territories). Without unpaid maternity leave provisions for adoptive parents, they run the very real risk of losing their employment whilst trying to meet the ACT central authorities requirements. The Human Rights and Equal Opportunities (HREOC) has recommended that the government abolish this age restriction.

2.03 **Commonwealth maternity payments** eg. \$3,000 baby bonus. The Centrelink website advises that the Maternity payment "recognises the extra costs incurred at the time of the new birth or adoption of a baby". A baby is defined as being up to 26 weeks of age. Hague convention requirements make it impossible that any baby will be adopted into Australia within 26 weeks of birth. (The birth parents of a baby abandoned must be given a "cooling off" period, in case they reconsider their decision. Next, a family must try to be found in the birth country of the child for a period of time. Only after both these periods of time have elapsed can a baby be made available for international adoption). Whether it is a baby or an older child being adopted, there will always be extra costs incurred at the time of adoption. In fact an older child adoption would incur greater expenses than a baby and this statement is supported by The Human Rights and Equal Opportunity Commission (HREOC) report in 2002, entitled "A Time to Value" where it recognised the costs incurred by adoptive families were equal to or higher than birth families. The HREOC report went on to recommend that adoptive families be supported equally to birth families. If the government were to allow adoptive families the Maternity Allowance of \$3,000 then on the most recent statistics available, the 2003-04 figures of 370 placement adoptions into Australia from overseas, this would only amount to \$1.11million dollars.

2.04 **Medicare subsidies.** The Commonwealth government heavily subsidises IVF procedures under Medicare (often quoted at \$50 million per year) as a way of creating a family, whereas the alternative, inter-country adoption, is not subsidised at all. Adoptive families are "user-pays" all the way.

2.05 Education of Government employees. Adoptive families receive varying levels of service when attending government offices and departments. One such often mentioned office is Medicare. Staff training manuals should include information to educate staff that families are formed by more than one means (for example, by birth, adoption and a combination of both). A recent initiative by the federal Education Minister, the Commonwealth Reading Tutorial Credit Scheme of \$700.00 did not make allowance for adoptive children with ESL difficulties. Adoptive families had to lobby to get "ESL (English as a Second Language) exempted children" eventually included.

2.06 Child migration visa. An application fee of \$1,245.00 is charged by the Commonwealth Department of Immigration (DIMIA) and is a direct cost that must be paid before an inter-country adopted child can enter Australia. This government fee adds to the adoptive family's expenses, but is not applicable for birth families.

2.07 Income foregone. When becoming an adoptive family, it is a state/territory central authority requirement, that one parent must stay-at-home as the primary carer for between six to twelve months (length of time varies between what state/territory an applicant resides). This results in the adoptive family losing one income at a time when the number of family dependants has increased. This requirement is not imposed upon birth families.

2.08 Length of time taken in inter-country adoption process. Birth families wait nine months to hold their child, adoptive families can wait up to four or five years before they can hold their child. The AFA acknowledges that much time is expended in the foreign country where adoption files are awaiting allocation of a child and these delays are beyond the control of the Australian government. However, more could be done to ensure there are no unnecessary delays preventing Australian families from applying to adopt. Some Australian states only hold Adoption Information Sessions once each year or in Queensland where the government allows a window of opportunity by only accepting "Expressions of Interest" for a few weeks every two years. In the ACT you cannot officially apply to adopt until you have attended a compulsory Adoption Information Session. After officially applying to adopt, there are many delays along the entire process from waiting for a social worker to be appointed to your case, to being officially approved to adopt by the relevant Australian state/territory authority.

How can the Australian government better assist Australians who are adopting, or have adopted, children from overseas countries?

- **Allow tax credits for adoption expenses.** Other developed countries around the world (including the USA, Canada, France, Holland and Scandinavian countries) provide tax credits to assist their adoptive families. Up to USD\$10,000 is given, per adopted child, in the USA. Some original AFA members, remember that Australia also allowed adoption expenses as a tax deduction in the past. Until 1976 all adoption expenses could be deducted from income. From 1977 until 1986, adoption expenses were claimable as a rebate, along with a list of other personal expenses. This was quietly abolished in 1986, but should be re-introduced as way of assisting adoptive families.
- The Commonwealth should establish uniform national inter-country adoption legislation to bring consistency across all states and territories. The Commonwealth government needs to become a driver of the whole process, instead of a passenger, thereby giving more consistency to the entire process. Would the government consider allowing an adoption organisation, such as the AFA, to have a representative attend the twice yearly central authorities meetings?
- Allow regulated private agencies (NGOs) to administer the information, education and assessment process. South Australia (up until earlier in 2005) and New Zealand use this process. In the New Zealand model, prospective adoptive parents feel great empathy from the experienced adoptive parents handling educational and assessment processes, which can not always be found from government employed workers.
- Currently, the Commonwealth government fully funds interpreters to assist non-English speaking citizens when required (eg. when seeking medical treatment). Adoptive families face great expense having compulsory documents translated into a foreign language. Could the interpreter service provide a translation service for adoptive families?
- In the final weeks before birth, pre natal classes are fully funded for birth families. Adoptive families must pay for their attendance at compulsory Adoption Seminars, often two or three years before adopting their child.
- After a birth, post natal classes are fully funded for a birth family. An adoptive family must pay for a social worker to complete the compulsory (Hague Convention requirement) Post Placement Reports, after the adoption of their child.
- A great deal more should be done in the vital area of post adoption support. Currently the various state and territory governments provide very little post placement support and the bulk of this work is being done by adoptive family support groups, run by volunteers. Parenting courses dealing with the often special needs of adoptive children, access to therapists trained in issues such as attachment disorder, abandonment issues, bonding issues, grief and loss issues along with many other obstacles facing post institutionalised children and their adoptive families, should be made available.
- In the hope of increasing the number of overseas adoption programs available to Australian families, programs that would be viable in offering the hope of a family to the greatest number of abandoned and orphaned children, a bilateral agreement should be negotiated with Russia.
- Differing upper age limits set for prospective adoptive parents by the various state/territory central authorities could be scrapped in favour of applying the limits as set out by the individual overseas sending country (also sometimes referred to as a "donor" country).

As AFA President, I wish to thank the Inquiry Committee for their kind invitation to appear before the committee to present oral evidence at the public hearing on 9th May 2005, substantiating and enhancing upon the above matters and answering any questions our submission raises.

Yours sincerely,

(signed)

Mrs Ann Plohberger

President

on behalf of

The Adoptive Families Association of ACT