



Adoption Support for Families & Children

SUBMISSION NO. 141

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Submission

to

House of Representatives
Standing Committee
Family and Human Services

Inquiry into the Adoption of Children from Overseas

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

Compiled by Sonya Mahoney
Committee Member
For ASFC
PO Box 122 Subiaco 6904
P/F: 08 9381 1222
E: info@asfc.info

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Abbreviations

AG	Attorney General Department (Federal)
AIHW	Australia Institute of Health and Welfare
ART	Artificial Reproductive Technology
AS	Adoption Services, Department of Community Development
ASFC	Adoption Support for Families and Children
BMI	Body Mass Index
DG	Director General
DIMIA	Department of Migration and Indigenous Affairs
Hague Convention	Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption
ICA	Intercountry Adoption
IVF	In vitro Fertilisation
NGO	Non Government Organizations
PAPs	Prospective Adoptive Parents
WA	Western Australia

1. Summary

Intercountry Adoption (ICA) placements in Australia are currently hovering at under 400 annually¹ representing 0.001% of the number of children joining families annually. In 2003, the total number of births in Australia was 251,200; and IVF births alone were ten times higher than adoption placements with approximately 4000 IVF live births.² Thus families who are created or added to through ICA are a minority group and currently unlike children who join their families through birth and Assisted Reproductive Technology there are no tax concessions or subsidies that adoptive families are able to access.

As an organisation built through adoption, we welcome this inquiry. We encourage the Committee to request the Federal and State Departments to produce copies of Legislation, Policies and Regulations pertaining to the adoption of children through ICA. We support the Committee to find recommendations that reduce or abolish discrepancies in the adoption process applicants face and ensure that adoptive families receive equal benefits alongside families who have children through birth. The premise behind adoption is that children are in need of families. Yet unfortunately worldwide thousands of children remain in institutions or even on the streets, as countries often do not have the resources to assess whether children are orphaned or able to provide safe shelter. The paramount concern throughout the adoption process is the child; ensuring that the legal processes that enable a child to join a family occur without corruption and trafficking. We acknowledge that children belong ideally with their birth family and birth culture but also respect the decision that nations make in choosing to place their children through ICA.

Australia is a signatory to both the Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption and UNICEF Child Rights. The Hague Convention along with the existing Bilateral Agreements and the Prescribed Agreement through the Family Court for China ensure that children in need of a family are placed with families in Australia guaranteeing that the ethical and legal practises employed to facilitate these placements are upheld and that children are not exploited. The implementation however of these Federal Agreements and Conventions through the delegation of responsibilities to the States³ has created a fragmented system where each State processes prospective adoptive applicants (PAPs) within its own State based legislation, regulations and policies. Criteria therefore Australia wide is broken and separated into multiple policy and state based decisions, when the agreements remain Federal. Then to complicate things further each state has then added the Hague Convention to its own state based adoption.⁴

State legislation sets criteria to as to who can adopt in that state, this however is historically a criterion for local adoption. Another anomaly is that adoption departments throughout Australia exist within departments that work predominantly within the realm of child protection. This has led in some instances, to the creation of practices and policies that do not always focus on the formation of adoptive families but rather on child protection. Adoptive applicants and the wider community unanimously acknowledge that there should be screening and assessment for PAPs yet those who choose ICA should not be restricted to the criteria set by State based legislation where that criterion is more restrictive than the criteria of a sending country. The criteria each sending country sets needs to be respected and acknowledged and not dictated to by each state's legalisation when the agreements are primarily Federal not state initiated.⁵

Since the inception of the China Programme to Australia in 2000, a programme that has rapidly increased annually our State departments now acknowledge that there are indeed more children in need of families through this one programme alone than they are able to process through assessment.

¹ AIHW Adoption Australia 2003/04

² ABS AusStats 3301.1 Births

³ Commonwealth- State Agreement for the Implementation of the Hague Convention on the Protection of Children and co operation in respect to Intercountry Adoption.

⁴ Adoptions Act 1994 WA

⁵ Nations are responsible for the care and protection of their citizens. Sending countries have the right and responsibility to define an adoption system that they believe will protect and preserve the best interest of their children.
Susan Soon-Keum Cox, Policy Executive for Holt Adoption Services. The Issues in International Adoption. IC Adult Adoptee

In reality many countries have thousands of children who are in need of families but do not have the resources to process the legal requirements necessary to facilitate ICA.

The USA is an example of as a receiving country that has seen an increase of ICA placements over the last decade (Appendix 1). Private agencies aside, US applicants like those from Australia need to meet the same criteria that each sending country requests applicants to address. Thus the question needs to be asked why are Australian statistics not increasing?

We ask the Committee to consider the following.

- Are the State departments staffed appropriately to process enough or more applicants?
- Why are there no NGO's working in the ICA arena when the Hague Convention allows for accreditation of NGO services?
- How can the Federal Attorney General Department delegate responsibility to administer programmes and guardianship to the states yet allow such fragmented process and policies be practiced in respect to Federal agreements?
- Are our State departments able to actively promote adoption, as a valid way to create families whilst working within the same departments whose primary role is child protection?
- Should PAPs choosing ICA be restricted to the criterion of the State they live in when the Agreements (Bilateral, Prescribed or signatory's to the Hague Convention) are Federal agreements between Australia and Countries, not agreements between countries and states within Australia?
- Why are adoptive families continuing to be discriminated against in relation to Federal benefits? Eg. Maternity Allowance when all other families are entitled?

2. Background of Adoption Support for Families and Children (ASFC)

ASFC is a non-government organization (NGO) that began in 1973 in response to the overwhelming need that families faced during the Vietnam War. Initially the organization began by providing aid and sponsorship to the many displaced families and children and this then led indirectly to Australian families adopting orphans from Vietnam, as the first wave of ICA to Australia. From humble beginnings over 30 years ago ASFC remains as Western Australia's oldest support organization for families through adoption. The aims of ASFC are two fold; firstly to provide support to Prospective Adoptive Parents (PAPS) and adoptive families and secondly to provide aid through monetary donations and goods to organizations that are at the grassroots caring for children. We provide aid to orphanages and supply basic necessities or educational support to children in areas where disease and poverty have destroyed their families' subsistence.

ASFC is not an infertility support group, we do not see adoption as a right or a service for infertile couples, and at least a third of our families have biological children. All our members choose to adopt: it is not a last resort but rather a valid way to form or add to a family. Members are encouraged to support one another and create life long links with other adoptive families and cultures that their children were born into. We are fortunate to live in a country that is predominantly tolerant and diverse with many multicultural activities at our doorsteps. We support and encourage all applicants who choose to adopt a child through ICA, for without applicants fewer children will have families. ASFC recognises that in an ideal world children are best served by remaining with their birth families and within their birth country if they are able and wanted. We acknowledge that due to culture, socio-economic and political constraints some children are unable to be cared for by their birth family or country of origin. As an organisation we support UNICEF's position statement on ICA⁶.

Education is a fundamental goal of the organization this is done in a number of ways. The first point of contact PAPS have with ASFC is often the Intercountry Adoption Seminar, which is one of the compulsory education components applicants, must attend. This seminar has been coordinated and facilitated by ASFC for over fifteen years and we are currently contracted by Adoption Services in WA to provide this. Ongoing education is also offered to our members a throughout the year in adoption specific areas as well as general parenting and ongoing adoption issues. We liaise widely with other NGO's Australia wide to ensure we keep in touch with other practises and current trends Australia and world wide.

⁶ UNICEF's policy on Intercountry Adoption:

Intercountry adoption is about finding parents for orphaned or abandoned children in another country.

When this happens, the child's links with his/her biological family are completely severed.

UNICEF recognizes that intercountry adoptions may sometimes be necessary.

However, UNICEF believes that appropriate domestic solutions can usually be found for children who might otherwise be considered as needing intercountry adoptions. UNICEF therefore focuses its efforts on facilitating solutions for the child to remain in his/her family, community or country of origin.

Intercountry adoption should take place in the following circumstances:

- a) Every effort has been made to keep the child in the family and community;
- b) When necessary, every effort has been made to successfully trace the parents of the child. This is particularly true in situations of emergency;
- c) When it complies with existing international instruments such as the CRC (particularly article 21), and the Hague Convention on Intercountry Adoption;
- d) All parties involved have given their informed consent;
- e) It is in the best interest of the child.

<http://www.unicef.org.uk/unicefuk/policies/>

Having adult intercountry adoptees within our membership we are privy to their experiences and opinions and draw upon their diverse opinions and life experiences. The overwhelming majority of adoptees, who share with us, acknowledge the loss of their birth family and culture yet embrace their adoptive families and recognise that ICA is a better alternative to remaining within an institution/orphanage. ICA for some adoptees and families may not always be a positive experience but neither is life in many biological families within Australia and this needs to be recognised. As an organization we strive to promote and support the experiences of ICA families and advocate for equitable benefits and legislative change that impacts on our lives. Our families are like any family they just happen to have been created or added to through adoption.

3. Addressing Terms of Reference

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

Information Seminars and calls for Expression of Interest (EOI)

- Each state has differing practises in how and when an applicant can commence the adoption process. *Examples given below.*
- **WA** has monthly Information Seminars conducted by Adoption Services Department of Community Development.

After which applicants then need to attend three compulsory education seminars co-ordinated by NGOs. Following this these applicants can then lodge an Expression of Interest to commence their application.

- **QLD** calls for EOI with no regular intervals, the last in September of 2004 where over 800 applications were lodged, the previous time was in 2002.

Following the EOI applicants then proceed through medicals, screening and then onto education.

- **NSW** applicants can apply for an Adoption Information Pack at any time. This guides applicants through the process and has an EOI form within to lodge.
- **Victoria** holds Information Sessions bimonthly and then onto Education as numbers allow.

Declaration that Infertility Treatment has ceased.

- Each state has differing legislative, process and policy in relation to infertility.
- Some states eg. Victoria & NSW state that you must cease all treatment before you can commence the adoption process.
- Others have no clear guidelines and it is left to the discretion of the assessor.
- In WA fertility treatment must have ceased at placement.

Eligibility

In relation to the criteria PAP's need to meet in order to be eligible to adopt the Council Of Social Welfare Ministers⁷ documented its recommendations. The following is one of the General recommendations.

15. *Persons involved in the adoption process should not be discriminated against or disadvantaged by State/Territory legislative differences.*

It is quickly evident though with a selection of examples we have compiled that applicants are disadvantaged dependant upon the state they live; through different State based Adoption legislation, accompanied by policy and practices of differing State departments.

⁷ Appendix 2 National Minimum Principles In Adoption. Council of Social Welfare Ministers 1993
ASFC Submission to the Inquiry into the Adoption of Children from Overseas. April 05.

Same Sex Couples

- WA and ACT are the only states that currently have legislation to that allows same sex couples to adopt.
- In reality however in respect to ICA there are currently no programmes that accept same sex couples.
- Applicants could be chosen through local adoption by birthparents.

Police Clearances/Finger Printing

- NSW is the only state that uses finger printing as a means of police clearances. Applicants need to do repeated testing and costs can escalate up to \$1000 during the process.
- Other states do State based and Interpol clearances.
- **No sending country request fingerprints as evidence of Police Clearance.**

Length of Marriage/Defacto Relationship

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Defacto relationship or married for 3 years	Defacto relationship or married for 3 years	Married	Married for 2 years.	Defacto relationship or married for 3 years	Defacto relationship or married for 3 years	Defacto relationship or married for 2 years	Defacto relationship or married for 3 years

Age Criteria

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
No set criteria or given upper age limit.	Must be at least 21 years and 18 or more years older than the child. No upper age limit.	Must be at least 25. 1 st Child no more than 40 years older than child; If 2 nd child to join family no more 45 years older than child	Must be 21 years if male, 18 years older than child and, if female, 16 years older than child; Age is considered but not a set criterion for upper limit.	18 years of age or over but under 55 years of age; Unable to place, a child where the person is under 25 or 50 years of age or more or who is more than 45 years older than the child, unless satisfied that there are special circumstances.	18 years older than the child; no more than 40 years age difference between child and applicant if no other child in family or 45 years if another child; each applicant is under 50 years	The sending country sets the criteria.	1 st Adoption age gap between the applicant and the child can be no greater that 45 years for the youngest applicant and 50 years for the eldest of a couple; 2 nd adoption the age gap can be no greater than 50 years for the youngest applicant. and 55 years for the eldest; the age gap for a single person can be no greater than 45 years.

Age criteria especially where there is no flexibility for a subsequent adoption can leave a child within a family without a sibling even though the family desires a sibling. This practice is surely not in a child's best interest. This occasionally means that families have moved states to facilitate a subsequent adoption. For many though moving is impossible both financially and socially.

Single Applicants

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Yes	Yes	?	No	No	No	Yes	Yes

Perhaps this is one of the most paradoxical discrepancies. The reduction in the number of children placed locally within Australia is related to a number of factors: increased birth control, access to abortion, financial support from the Federal Government for single parents and a gradual change in community attitude of acceptance of single mothers/parents. Ironically, within our departments, prospective relinquishing mothers are encouraged, and supported, to keep their children, even as single parents with family support. We acknowledge that ideally children belong with their biological parents if they the birth parents are willing, able and wish to care for them.

Here is the paradox: whilst we encourage and support those with genetic links to maintain single parenthood, those that seek to be parents through adoption as single applicants in the states that allow it, are occasionally discriminated against because they do not have a partner. Though they may have extensive support systems outside of a relationship this is questioned and often put back onto the single applicant as trying to fulfil needs other than being a parent. If we as a society acknowledge that single parent families are entitled to support and financial benefits then single applicants should also be accepted throughout Australia and given the same credit through the process as couples are.

Single applicants who choose to adopt and parent are sometimes questioned as to their motives yet the same aspirations expressed by a couple are often seen as acceptable.

Medical Criteria

- The requirements of each state, in terms of what a standard medical includes differ.
- WA and QLD assess and can exclude applicants on weight, based on the applicant's BMI.
- QLD requests a chest x-ray, no other state does unless the Doctor examining requests same to make a differential diagnosis.
- The frequency of medical updates also differs from annually to two yearly

Education Sessions

- Each state has differing education requirements. Some are done over a weekend, others during weekdays and weekends.
- Some require PAPS to attend two full day seminars, others three days.
- Some education seminars need to be completed within a certain time frame and others seminars can be added ad hoc.
- The state departments coordinate some seminars/sessions others by NGOs or are contracted.
- In some states PAPS have to wait to be invited to attend in others you can set your own timeline and others attend as booked in order of application.
- All states require both applicants to attend if adopting as a couple.

- Education for PAPs historically was initiated by adoptive parents wanting more support and knowledge for themselves and their families.
- Adoption education began primarily amongst the NGO's and has moved into compulsory requirements for all Paps.

Assessment Processes

Differences Include

- **Length** of time to complete assessment from 12 weeks to 6 months.
- **Number of Visits** for a primary or first assessment vary from 3 visits to 6.
- **Requirements** of Adoptive parents.
Table of Competencies Adoptive for WA PAPS. (See Appendix 3).
- Some states request a project book to be done by the applicants on the country they are planning to adopt from others do not.
- Assessments are completed by **different professionals** with differing levels of knowledge and experience of adoption.
- In some states the assessors are attached to the State Adoption Service and assessments are completed by an Adoption Worker (Social Workers that work only in the Adoption Department).
- Other states use contracted Social Workers and/or Psychologists.
- The knowledge and perception of adoption amongst assessors varies significantly.

Access to completed assessment reports

- All states ensure that PAPs read their report prior to it being submitted for approval however access to a copy of this report varies.

Eg. Victorian applicants are given a copy of their report and are asked to make comments prior to approval, in WA PAPs are not able to have a copy until approved.

Restrictions on the number of Children in Existing Family

- QLD is the only state that has a limit on the number of children who are in the existing family.
- Some sending countries do have criteria that may preclude some families however this is usually waived if families are open to accepting children with special needs.
- **Each family should be assessed on their own merit, with the number of children not being a set rule or a given.**

Age difference between children in family

- Depending on the state in which you reside the difference between the youngest child in the existing family and the child being placed in the family is between 1 and 2 years. In all states the child who joins a family needs to be the youngest and placement time frames are two years Australia wide.

Name Changes

- Currently WA and NSW are the only two states that have legislated to prohibit the removal of the first name of a birth child except in exception or special cases. This is only incumbent on those adoptions that are finalised within the state⁸ and not those finalised outside of the state eg. China or Hague Convention programmes where the adoption is finalised in the sending country.
- WA Policy practice however goes beyond what Legislation states, requesting that even applicants with whom the legislation has no influence i.e. Adoptions finalised outside of Australia and recognised as complete prior to the arrival in Australia (China) are also asked to seek approval for a name change from the Manager of Adoption Services.
- Though a contentious issue and one where there are varied opinions for and against retaining the first name of children, most applicants do not seek to remove the name but add a first name and retain the birth name as a second name.

Information sharing between Government Departments and NGO's

- There is a general lack of consistency and transparency regarding the amount of information that state departments choose to share with applicants and NGOs.
- It varies from state to state and even between NGO groups within the same state.
- As Government bodies and Central Authorities they need to be transparent and accountable to the public and as such all statistics, information relating to programme development and policies pertaining to the practise of adoption needs to be accessible and freely shared with the wider community.

⁸ 74. Name of adoptee

(1) If an adoption order is made, the Court is to, by the same order, declare the name by which the adoptee is to be known.

(2) Before making an order changing an adoptee's name, the Court is to have regard to ¾

(aa) the principle that a child's first name should not be changed at the time of adoption except in special circumstances;

(a) section 34(3) of the Births, Deaths and Marriages Registration Act 1998;

(b) the wishes expressed by the adoptee on the subject; and

(c) any adoption plan that is made in relation to the adoptee and approved by the Court.

(3) The Court is not to change the name of an adoptee who is 12 or more years of age unless the adoptee ¾

(a) consents to the change; or

(b) is incapable by reason of mental disability of consenting.

(4) An order under this section does not prevent a subsequent change of name under a law of the State or the Commonwealth.

[Section 74 amended by No. 40 of 1998 s.6(3); No. 8 of 2003 s. 40.]

Approval and Appeals

- The Approval process once the Assessment is completed again differs across the states.
- WA for instance meets monthly with an Adoptions Application Committee comprising of 8 members, 4 non-department based.
- In NSW applicants can wait up to 6 months from completion of assessment to approval, often with no transparency as to where the report is at any given time or what the time frames are.
- In regards to APPEALS to decisions where PAPs are not recommended for approval the appeal process is varied.
- In some state PAPs are able to seek recourse through an independent body not associated with the Department whilst in others they are only able to seek appeal through the same Department and thus the question of conflict of interest must be raised where no independent review can occur.

Pregnancy Testing

- Only two states require negative Beta HCG's.
- Victoria require a female applicant to provide a negative Beta hcg at allocation and then again prior to travel if travel is not with 12 weeks.
- WA requires same one week prior to travel/placement.

Costs within the Australian System

- State department fees for adopting a child through ICA adoption vary from \$2,000 to nearly \$10,000. It is stated by some Departments that these fees cover the costs of subsidising post adoption services to adult adoptees. In some states the Department fees are significantly higher than the combined cost of travelling, sponsorship and adoption fees.
- EG. NSW State Fee \$9,700 Philippines total costs including travel approx (\$8000)
- The fees that the State departments charge alone before one adds the fees set by the sending countries prohibits many would-be parents from considering ICA. Though a steady income is necessary to ensure stability within a family it does not add strength to the virtues or strengths of prospective parents, education and networking is a far greater resource for families.
- **The other salient point that needs to be addressed in regards to costs is that in many instances it prohibits a child who joined a family through ICA from gaining a sibling through adoption as the adoptive parents may be unable to afford the costs of a subsequent adoption.**

Period of time having to stay at home post placement.

- Some states (QLD and Vic) require applicants to sign an undertaking that the primary caregiver remain at home after the placement of their child for either 6 or 12 months.
- We recognise and would encourage all families to remain at home for as long as they are able to in order to maximise an optimal transition, and facilitate ideal attachment. However, not all adoptive parents have access to paid leave or are able to 12 months maternity leave. Also, due to the costs of ICA, some families may be forced to return to work.
- Most adoptive parents, like any other parents, return to the paid work force if the benefits outweigh the child's needs. Though transition for some adoptive children is lengthy adoptive parents should be given the option afforded to biological families of being able to make a decision as to what is best interest of their family.

Post Placement Supervision

- In regards to where children are "*wards of the state*" i.e. until the adoption order is finalised. Each state has the responsibility to ensure that these children and families are adjusting to family life and provide support as needed in this transition time.
- Each state has a different number of visits it conducts and support offered and the time frame they continue post placement.
- The time given before the Adoption Order can be granted is from 6 – 12 months post placement, thus movement within Australia can be complicated post placement waiting for finalisation to occur or guardianship to be transferred between the states, often incurring increased fees by the new State department taking over guardianship.
- In some states, the contract social worker that did the initial assessment of the family pre approval and pre placement undertakes the post placement supervision. In others it is only completed by the state department's staff.
- Some state the States the departments see the child within a week of arrival in Australia whilst in other states department workers do not see the family. A contracted worker attached to the department conducts the post placement visiting the family. The contracted workers report to the state departments as required and supply reports that are needed to support adoption finalisation where applicable and secondly to be sent to the sending countries as post adoption reports.

Withholding of Passport Post Placement

- WA is the only state that stipulates adoptive parents hand over their child's passport to the department on arrival into Australia following placement; to ensure there is no flight risk, historically it has not always been practised and was introduced following one incident over a decade ago. It is not returned until the adoption order is finalised.
- (NB: this practise is only for adoptions where the adoption has not been finalised: i.e. bilateral agreements, some Hague Convention countries, not China)

4. Addressing 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.

Benefit	Birth Families	Local Adoptive Families	ICA Families
<p>Birth</p> <p>Placement of a child in your family.</p>	<p>Antenatal/Intrapartum & Postnatal care. Free through State hospital and Medicare funding.</p> <p>Families can choose to use Private Dr and Hospital at their own Cost.</p> <p>IVF and ART are subsidised through Medicare and have a safety net.</p>	<p>Education and costs paid for by PAPs compulsory.</p> <p>Fees vary from state to state.</p>	<p>All costs absorbed by PAPs.</p> <p>No subsidy or tax rebate given.</p> <p>The USA has a \$10000 US tax rebate that can be claimed until personal income reaches \$190,000 US.</p>
<p>Paid Maternity Leave</p>	<p>Most Public Sectors. Some Private</p>	<p>Dependant on employer.</p> <p>Child generally needs to be under the age of 5 years.</p>	
<p>Paid Adoption Leave</p>	<p>NA</p>		
<p>Restrictions on returning to work after birth/ placement of child.</p>	<p>Nil</p>	<p>In some states adoptive parents have to sign an undertaking not to work within 6 – 12 months after placement.</p>	
<p>Maternity Payment / Baby Bonus</p>	<p>All</p>	<p>Dependant upon the age of child at the time of placement – some children are placed under 26 weeks.</p> <p>Some adoptive parents have claimed Maternity Payment as child was placed prior to 26 weeks of age and it has not been given as the Foster Carers had already been given same.</p> <p>Foster Carers unlike adoptive families are reimbursed through the State Dept. Adoptive parents should be able to access Maternity benefit even if Foster Carers have already received it.</p>	<p>Depending on age of child at the time of placement i.e. less than 26 weeks – only children who are currently being placed from Korea or Taiwan would be placed prior to 26 weeks.</p> <p>The majority of families are currently not able to claim benefit.</p> <p>China for instance the largest programme currently Australia wide has seen the youngest child to arrive is over 9 months of age.</p>

Loss of Child Death/SIDS Grief	Offered support through SANDS, Government agencies and subsidised counselling services.	<p>Application to adopt not approved.</p> <p>No follow up of PAPs by Government Depts. No documented support agencies no counselling or follow-up.</p> <p>Yet for many this is similar to a death of a child and a dream that has absorbed often over a year of their time plus considerable expenses that are non refundable.</p>	
Federal Government DIMIA Sponsorship Fee	NIL	NIL	\$1245.00 Indexed to CPI annually.

Birth Certificates/Certificate of Adoption

- **All children born in Australia are able to access a birth certificate.**
- Children whose adoption is finalized through the Australia Court system following a period of guardianship within Australia are able to have an Australian Birth certificate once the Adoption order has been finalized.
- Children whose adoption was finalized outside of Australia (EG. China) have documents from their country of original that substantiate their birth and adoption. They often need translating and certifying.
- However many families find that these original and translated documents often cause confusion are not readily accepted by various Government and NGO agencies within Australia, needing lengthy explanations when submitted. Adopted children should not have to explain their adoption to anyone and a document needs to be created by the relevant State Registries that allows these families access to one document similar to a birth certificate.
- This document is not desired to provide a way for adoptive families to hide the adoption, but to ensure that the children are able to access one legal document, recognised Australia wide, which will affirm their birth details and their adoption to their parents.

6. Recommendations

How can we better assist those who are preparing to adopt through ICA and ensure that adoptive families receive an equitable process no matter where they reside and that benefits that those who add to their families through birth do are also afforded equally to those who adopt?

- Abolish fees charged by State and Territory governments.
- Explore and promote new intercountry adoption programmes continuously.
- Abolish Australian Federal Government fees on Sponsorship. DIMIA
- Offer a Tax Rebate and/or Deduction on donations paid to orphanages and overseas legal fees. Similar to the Medicare Safety Net, and remembering IVF procedures are currently subsidised.
- Ensure that consultation processes remain transparent in regards to legislation and policy change between AG, State Departments and NGO's.
- Make states accountable to the Sending countries criteria in regards to ICA and applicants not penalized by restrictive state based adoption criteria. Examples below.

All states should process singles applicants through the ICA programmes that accepts singles.

Adding to a family through ICA by adopting another sibling should not be limited by the age criteria of the state applicants reside.

Applicants should not be forced to move to facilitate this.

(It is noted that for some families they may have to adopt from differing countries as they may not meet the criteria is set by country they first adopted from.)

- Reduce duplication of services by State Departments that NGO's are already doing or are able to do through appropriate referral to NGO services and support groups.
- Ensure an Australia wide policy is introduced to facilitate the Accreditation of NGOs under the Hague Convention.
- Where productivity cannot be met through the State departments, delegate and facilitate Accredited NGOs to assist in the pre and post placement process.
- Legislate with changes to the Social Security Act that **all adoptive families no matter what the age** of the child when they are placed with the family are entitled to the Maternity Allowance.

At current adoption placements this would cost the Federal government just over 3 Million annually.

- **All families local or intercountry who had children placed with them after the 1st July 2004 should be entitled to the \$3000 Maternity Allowance like biological families and it should be back paid.**
- Where women/men are entitled to maternity/parental leave adoptive families are able to access the same leave within the same workplace.
-

- **Ensure maternity leave is accessible to all families regardless of the age of the child at placement.**⁹
- Enable all children are to access a birth certificate as one document that is legal and recognized as such Australia wide.
- Ensure that applicants no matter which state they live in are able to access all ICA programmes even if the criteria of that state is more restrictive recognizing the Federal Agreements with the sending countries and not the state based legislation for local adoptions.

⁹ Human Rights and Equal Opportunity Commission Preferred Model for a National Paid Maternity Leave Scheme
Recommendation 4: That paid maternity leave is available to the primary carer of an adopted child irrespective of the age of the child.

6. Conclusion

The most frustrating limitation applicants face is the multi-layered Legislative and Policy differences of each state. Firstly, applicants need to meet the criteria of the state they reside in. To be able to transfer adoption applications to another state is often restrictive or even futile, as the state the applicants are moving to may no longer consider them eligible under their legislation, or may ask the adoptive applicants to repeat education, pay further fees, repeat assessment, or wait in queues again.

As adoptive parents, we acknowledge the need to screen those who seek to create, or add to, a family through adoption. Adoption should be an option for the average person; however, our departments are looking for applicants who are beyond average and or better. We agree adoption should be child focused however where is the family for the child without adoptive parents? Adoptive parents are an intrinsic component of the adoption triad and as such connected to their children and their children's birth family and country through intangible lifelong links. Like the children who join adoptive families, adoptive applicants also deserve to be treated with equity and respect throughout the process of approval and beyond.

Inter-country Adoption (ICA) is not second best it is a valid way to form or add to a family; however, this is not uniformly reflected in the equity of entitlements adoptive families are able to access through both the State and Federal benefits. Families adopt for many reasons but the most important factor is that they choose to adopt, they should not be penalised for this choice but supported at all stages of the process by the Federal and State Central bodies and the wider NGO organizations.

We look forward to reading the committees recommendations.

If at any stage you require clarification or further information please do not hesitate to contact us.

With thanks,

Yours Sincerely,

Sonya Mahoney
Committee Member
On behalf of the ASFC Committee
ASFC www.asfc.info
PO Box 122
Subiaco 6904
P/F: 08 9381 1222 (Office)
P: 08 9272 9156 (H)
M: 0403 844 149
E: info@asfc.info

Appendix 1

Top Twenty Source Countries for
International Adoptions to the US 2004

Country	2004	2003	2002	2001	2000	1999	1998
* China (Mainland)	7,044	6,859	5,053	4,681	5,053	4,101	4,206
Russia	5,865	5,209	4,939	4,279	4,269	4,348	4,491
* Guatemala	3,264	2,328	2,219	1,609	1,518	1,002	911
* S. Korea	1,716	1,790	1,779	1,770	1,794	2,008	1,829
Kazakhstan	826	825	819	672	399	113	--
Ukraine	723	702	1,106	1,246	659	321	180
* India	406	472	466	543	503	499	478
* Vietnam	--	382	766	737	724	709	603
Colombia	287	272	334	266	246	231	351
* Bulgaria	110	198	260	297	214	221	151
Cambodia	--	124	254	407	402	249	249
* Haiti	356	250	187	192	131	96	121
* Philippines	196	214	221	219	173	195	200
* Romania	57	200	168	782	1,122	895	406
Belarus	202	191	169	129	--	--	--
Ethiopia	289	135	105	158	95	103	96
Poland	102	97	101	86	83	97	77
* Thailand	69	72	67	74	88	77	84
Azerbaijan	--	62	--	--	--	--	--
Mexico	89	61	61	73	106	137	168
Top Twenty	21,831	20,443	19,139	18,193	17,579	15,365	14,817
World Totals	22,884	21,616	20,099	19,137	18,537	16,396	15,774

http://travel.state.gov/family/adoption/stats/stats_451.html

Appendix 2

- **Comparative State Table
Compiled by AACAMP**

State	Population	Adoptions #	1 adoption per...
NSW	6,731,400	66	101,991
VIC	4,972,800	86	57,823
QLD	3,882,000	49	79,224
WA	1,982,200	44	45,050
SA	1,534,300	72	21,310
TAS	482,100	22	21,914
ACT	324,000	26	12,462
NT	199,900	5	39,980
<i>Total</i>	<i>20,108,700</i>	<i>365</i>	<i>55,092</i>

Adoptions are not placements/allocations for that year rather those Finalised in that year.

<http://www.aihw.gov.au/publications/cws/aa03-04/aa03-04.pdf>

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/6949409DC8B8FB92CA256B>

Appendix 3

- **COMPETENCIES EXPECTED OF ADOPTIVE APPLICANTS**
Western Australia Department of Community Development
See Attachment