

SUBMISSION NO. 127

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24 April 2005

Committee Secretary
Standing Committee on Family and Human Services
House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA
Via email to fhs.reps@aph.gov.au

RE: Inquiry into Adoption of Children from Overseas

Dear Secretary

I'd first like to thank the committee members for establishing this well needed inquiry, it is much appreciated.

My wife Jillian and I adopted our first child from China in November last year and we intend on adopting a second child next year if we are able to. Our recent experience of Inter-Country Adoption (ICA) has allowed us to experience first hand some of the inequities that plague the process in Australia, as well as come to understand from friends in the Adoption community other gross inequities that we personally are lucky enough not to have to worry about.

In effect it is the Federal Government's domain to regulate ICA in Australia, currently some of those powers just happen to be delegated to the mixed bag of state departments. I hope this inquiry allows the Federal Parliament to see that the simple hands off approach has let inequities that are not in the best interests of the children concerned come into play.

The best interests of the children should always be the driving ideal that underpins ICA in Australia. As a corollary, support for those parents of a child via ICA is vital to ensure the best outcome for the child. A child that grows up to be a healthy well adjusted Australian is surely a good thing for our country. It is from this perspective that this submission is written

Capacity is the Thing That Counts: a) Age Restrictions of Parents Removed

Even our Prime Minister John Howard had the sense to acknowledge that age should not be what is considered but more a capacity to do the job when speaking to welcome the newly elected Pope Benedict recently:

"But let me say, I have never held a view that age is a disqualifying factor. Capacity is the thing that counts. And capacity is found in different quantities in different people at different stages of their lives."

Surely this sentiment in relation to a position of absolute authority and control over one of the biggest, most powerful and influential organisations in the world, would carry through to the important yet not quite as all encompassing a role of ICA parent – capacity to do the job is what should be evaluated, arbitrary age restrictions are not in the interests of children growing up in orphanages.

The age limits unreasonably placed on parents living in SA, Tas & WA need to be removed. Rather potential parents need to be evaluated on their merits. Children in need are being denied homes with good loving parents that have passed muster & been shown to be suitable for ICA on all grounds except an inane reference to age.

Capacity is the Thing That Counts: b) Singles/De Facto Restrictions Removed

Some states (Tas, SA, NT, Qld) bar or place needless limitations on singles who choose to adopt children via ICA, similarly others bar couples in a De Facto relationship (Qld, NT). I personally know quite a few single parents of ICA children, and I know that the children in each of their care are blessed with a family environment in which to grow up that is beyond reproach. These parents were evaluated on their merits for their capacity to care for a child of ICA, they were deemed suitable by their state department and have all shown what great and loving parents they are and prove in practice that there is no reasonable basis for excluding singles or De Factos on that basis. All potential ICA parents should be evaluated on their capacity to successfully parent ICA children. These arbitrary restrictions are not in the interest of the children concerned – “Capacity is the thing that counts”.

Federal Maternity Payment

The Federal Maternity Payment that is made available to new parents of biological children is not made available to the vast majority of inter-country adoptive parents, and this is an inequity that needs to be addressed. Reliable estimates show that over 80% of children placed in Australia under ICA are over the arbitrary 26 week age cut off and hence the families currently are not eligible for the Maternity Payment. I am not aware of a single child placed from China in Australia that was 26 weeks of age or under. Our lovely daughter was 13 months old when we were united as a family.

The Maternity Payment as I understand it is to help cover the costs associated with a new child for a family. The main costs faced are material goods, medical/admin costs and loss of income for a period of time. For families involved in ICA these costs are considerably more than for other families:

- Material goods costs are generally the same – cots, prams, car seats, clothes etc... all have to be bought.
- Medical or other admin costs are far greater for ICA families, when all the costs are added up including the costs involved in travelling to pick up the child we were out of pocket over \$27,000. Depending on the country the child is adopted from and the exchange rate at the time these costs can be significantly greater still.
- Loss of income costs are generally far greater for ICA families. To ensure that the children adopted have the best chance at developing normally & overcoming the trauma/grief of losing their biological parents and gaining new adoptive parents, in Victoria we sign a written undertaking that only the adoptive parents will care for the child for the first 12 months. This means that in effect as parents between us we must mandatorily take off 12 months from work. Thrown on top of this the Adoption Leave provisions we face offer considerably less paid leave than if we happened to be having a biological child, so we've both had to access Annual Leave to cover the period of time we had off from work together. (I should note though that we view the insistence of the Parents as sole primary carers for the initial period as a good and sensible thing for the health and wellbeing of the child.)

The Federal Maternity Payment should be paid to all ICA parents irrespective of age as these are costs borne by the parents no matter what age the child. There is only a few hundred ICA adoptions each year (& considerably less local adoptions) this is one inequity that could be fixed with barely a ripple in the relevant budget item.

Abolish Government fees & Provide Full Funding

A large part of the costs associated with ICA are direct fees charged by Government departments and agencies. The fees to gain approval for ICA range between \$2000 and \$10000 approximately, with the big states NSW & Vic being on the high end of this scale. The cost of the visa from DIMIA for simply bringing our child into the country is \$1245 – personally this fee grated the most, it felt that we were being judged a 2nd class family at the very moment that our child first entered her new home.

In Qld the paucity of funding for ICA has led to a very sad situation where parents couldn't even apply for ICA for years, and the recent opening up to new applicants was a short lived process as the minimal capacity of the state department was reached – people have moved state so that they could actually apply for ICA. In Victoria, the department is so stretched that there are waits of about 7 months just to get into education sessions (one of the steps before approval). The frustrating waiting periods that have emerged across the country due to lack of funding only hurt the interests of the children concerned as parents wait longer to be united with children and others choose not to line up for the frustration that they could face. The Federal Government could alleviate the bottlenecks that have arisen across the board and make ICA accessible to more by providing full funding for ICA processing in Australia and by abolishing government fees for ICA families. A system of funding could be put in place where funding is provided by the Federal Government, and the service is delivered by the states who have to meet fair targets for service delivery.

Assistance with adoption expenses

ICA involves huge out of pocket expenses for the families involved, and in the long term is of real benefit to Australia as the child grows up to be another productive contributor to the community and the economy. It would be a relatively simple change to allow the costs associated with the adoption placement to be counted as a tax deduction for the parents. Or alternatively a one off grant could be provided to help offset the costs associated with ICA, similar to the USA where a grant up to \$10000 is available to be claimed, as well as tax deductions.

Remove Unjust Discrimination: a) Legislate for Equity

Currently ICA families enjoy lesser benefits and recognition than biological families on a number of fronts. The Federal Government should legislate to ban discrimination on grounds of adoption & review current legislation to ensure it complies with this concept.

Remove Unjust Discrimination: b) Paid & Unpaid Leave

One very clear discrimination against adoptive families is with access to paid parental leave in workplace agreements, more than half of workplace agreements with paid Maternity/Paternity Leave don't have equivalent paid Adoption leave provisions. Of those that do have Paid Adoption leave, far too many of those have lesser provisions than for Paid Maternity/Paternity leave. When adopting our child, my wife was one of the lucky ones who had equivalent conditions to biological parents, I on the other hand was one of those whose workplace agreement provides no paid leave for Adoptive parents, yet does have paid leave for biological parents. It is important for all new parents to spend time with their children in the time after they join the family, however this need is far greater with ICA children. They have not only been through the trauma of separation/abandonment but loss of their birth culture & language – a huge and trying upheaval through which they have to try and learn who their new parents are and create a bond of love and attachment with them. A concerted effort to spend time with the child in the first months after placement reaps huge rewards in overcoming the difficulties inherent in adoption – we did take extended time off work & the changes we saw with our daughter in the first 3 months alone were amazing.

ICA parents actually need better support than biological parents, at a minimum legislation should ensure that Adoptive parents receive equivalent provisions (Paid leave, Unpaid Leave, flexible return to work provisions ...) to biological parents in all workplace

agreements. Ideally though Adoptive leave provisions should also provide for a greater period of joint time off (i.e. Joint Carer's leave rather than Primary Carer's leave) as not only does the ICA child need to learn who their parents are, but both parents have to travel to pick up the child, in our case the travel alone was 3 weeks before we were home.

Remove Unjust Discrimination: c) Remove Restrictions Based on Age of Child

In nearly all instances of both unpaid and paid Adoption leave an arbitrary restriction removing the entitlement if the child is over 5 years of age is in place (the WR Act basically enshrined this). This discrimination needs to be removed for the sake of decency. The best interests of a child are normally served by their being as young as possible at the time of placement. For those children who are placed at older ages, the parents have to put intensive work into successfully settling them into their family and society. The older the child is the greater the level of support should be, to suggest the reverse shows a perverse lack of understanding of the complexities involved.

Take a more pro-active role as the "lead agency"

As it stands there is a real inertia in establishing ICA programs with new countries. The Federal Government needs to assert its role as the Australian "Central Authority" under the Hague Convention and take over the role of initiating action to investigate and develop programs with other non-Hague countries. Countries should be treated on a case-by-case basis ensuring there is no arbitrary blanket ban against programs with non-Hague countries. The program with China took years to get off the ground, but now established is one of the leading programs in Australia – a shining example of why it is worth exploring new options.

Conclusion

Peter Costello last year exhorted us to have more kids, one for Mum, one for Dad and one for the country. Well we're trying our best and we hope that the Federal Government realises this and decides to offer a fair level of support to ICA families to help that happen. The costs of ICA are huge, we'll be more \$60,000 in total out of pocket after we adopt our second child, this is an additional financial burden that we didn't anticipate when we set out to start our family. As it stands today we are in the process of getting our family home ready for sale so that we can afford to adopt our second child. This is not something we do lightly as we worked hard on this house to make a family home, but given the joy our first child has brought to us, and the joy we know our second child will bring to all of us it is a sacrifice readily made – it is just a shame it has to be made.

At a bare minimum inequities need to be addressed so that ICA parents are at least not treated worse than biological parents. However there is scope for real improvement in how ICA works in Australia so that not only the best interests of children in need are addressed, but also our National interest. I urge you to make some real changes for the better, and I hope the issues and suggestions raised in this submission help guide you in that task. I would be pleased to be able to provide further information if required on any of the matters herein contained.

Yours sincerely



Christopher Lockwood