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EDITORIAL

Receiving countries: A new look at priorities regarding child protection and adoption?

It has become a recurrent scenario over recent years for receiving countries to see a drastic decline in intercountry adoptions, all too often this is perceived as inevitable but could it perhaps be seen as an opportunity for these countries to review their priorities?

Let us close our eyes back to more than twenty years ago: the preparatory work of THC 1993 was well underway and the expectations of countries of origin were high, some of which however did not have any national adoption system, a prerequisite (condition sine qua non) for the correct application of the principle of subsidiarity. Now open your eyes and look at the progress made by countries such as Brazil who have developed a true culture of national adoption which did not exist previously or Chile (see page 7), India or South Korea where national adoptions have multiplied leaving an increasingly marginal place for intercountry adoptions. Even though the challenges of countries of origin are still numerous, in matters of intercountry adoption their priority turns increasingly towards children with special needs. These children who have for example, physical or mental health problems, disability or are older, have longer waiting periods for a family project. Now turn to the receiving countries, have they fulfilled their part of the contract, for example in the preparation and post adoption monitoring or even the prevention of abuse linked to the financial aspects of adoption? Intercountry adoption continues to raise new practical and legal questions (see page 3) and in its current form seems to provide an ideal opportunity to not only think but also work towards a redefinition of the priorities of receiving countries regarding adoption and more broadly child protection (see page 8). Proof of this necessity is the fact that some receiving countries have become countries of origin in relation, for example, to certain profiles of children specifically from minorities for whom they were unable to find a domestic permanent family solution.

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The principal of subsidiarity from the perspective of prospective adoptive parents

Let us look at a classic situation today is that a prospective adoptive parent (PAP), meeting the criteria fixed by the law and the policies of a given receiving country, who approaches the competent authority in order to submit his/her application. The PAP sometimes applies stating a preference for national adoption of a child deprived of his/her family, an approach that the authority should logically encourage and support. Is there not, in this procedure, a coherent application of the principle of subsidiarity on the part of the PAP (see the Special Monthly Review, March/April 2009, on the principle of subsidiarity)? The response seems obvious and yet how many children, deprived of their family, are in institutions or with foster families for interminable years in various receiving countries without a permanent family solution such as adoption being proposed? It should also be noted that a number of these children in alternative care come from countries which are among the most popular countries of origin. At the same time how many PAPs are waiting for an intercountry adoption that will never happen? The following choice is therefore available to receiving countries provided that political willingness follows:

Persist with increasing intercountry adoptions or lift the obstacles to national adoption?

ISS/IRC commends those receiving countries who have begun to respond to this question by operating genuine reviews of both their intercountry adoption system and child protection. Thus Sweden, Denmark and Norway in particular have carried out an in-depth analysis of their intercountry adoption system in order to adapt the numbers of cooperation with countries of origin to the needs of these countries, and have proceeded with decisions such as the adjustment of the number of AAB's (See Monthly Review n°199, February 2016) the development of post adoption support services (see Monthly Review 188, January 2015) and also the adaptation of the preparation of prospective adoptive parents to the profiles of children (see Monthly Review 191, May 2015). Other countries like Spain (see Monthly Review 194, September 2015) or New South Wales, Australia (see page 9) have launched major reforms of their child protection system so that the principle of subsidiarity will be effective for PAPs and they can thus offer many children in alternative care in their own country the opportunity to grow up and thrive within a family. In these two countries, and in many others, promoting national adoption must be a key priority together with the development of temporary family solutions such as foster families, which are currently too few to meet the needs of children. These major challenges highlight a fundamental question:

Should prevention measures and child protection in receiving countries continue to take second place?

What if the energy and the funds of receiving countries, which are focussed on preparing, recruiting and supporting PAPs in the intercountry adoption of children with special needs, changes perspective in order to turn primarily to the special needs of children present within their own territory. Without such engagement receiving countries risk being confronted with, if it is not already the case, the situation some countries of origin are facing today: that is having an intercountry adoption system which is better developed than their national adoption system. It would seem there are some readjustments to make?

Conscious of the major difficulties of such an exercise, ISS/IRC continues their unabated efforts towards giving priority to the interest of the child above all other interests. Receiving countries and countries of origin striving to offer children deprived of their family within their territory a permanent family solution is an essential investment for the future of our societies and the world.

The ISS/IRC team
April 2016

ISS NEWS

International Social Service holds its International Council (General Assembly) in Melbourne, Australia, 7-8 April

Adoption of a historic resolution - ISS Members recently participated at the ISS International Council (IC) to discuss emerging social challenges affecting children and families on the move. The necessity to collaborate as a network and further develop and expand well targeted individualised services addressing the complex needs of migrant families and children was also discussed in detail. One of the outcomes of the IC was the adoption of a historic resolution, deciding unanimously for the membership expansion by giving the opportunity to more organisations adhering to ISS working principles, to join as members and actively participate in policy and decision making. The Secretary General closed the meeting by stating that "ISS has taken the right decision in terms of membership structure. ISS is now better equipped to serve more and more children and families on the move and to serve better".

Call for urgent action - the ISS International Council meeting recognised with grave concern the large number of families including children and young people who are on the move in every continent. ISS' experience over 90 years shows that a failure to deal constructively with the individual and social consequences of migration will result in long term individual and social tensions fueling community tensions and conflict. The ISS IC urgently calls on all governments and actors to treat these children as we would all children. ISS commits to providing support through assessment services as well as promoting quality durable solutions and transnational guidelines, for these children and their families.

LEGISLATION

Habitual residence: A social legal perspective in intercountry adoption and cross-border child protection contexts

ISS/IRC is happy to share its analysis of the concept of habitual residence which remains a key issue in matter of children rights and still raises a lot of questions.

The habitual residence (HR) of the child has been at the centre of several research studies and debates over the past years given to its peremptory importance in identifying the competent court and so as to ensure the respect of the best interest of the child in the State of his/her presence and bonds. The fourth Special Commission (SC) on the practical operation of THC-1993 of June 2015 adopted final conclusions and recommendations¹, which highlighted that "a common understanding of the factors and the promotion of a training for judicial and administrative bodies were clearly needed towards the best determination of the habitual residence". Important opinions and case law arose, in particular regarding the factual interpretation² of HR which for example has been clarified by the Court of Justice of the European Union (CJEU)³ specific definitions being absent.

Criteria of habitual residence

The report⁴ drafted by the Permanent Bureau (PB) in the context of the last SC highlights that challenges in interpreting the concept of HR in the framework of THC-1993 still remain, with particular regards to the adoptive parents' perspective in applying article 2, notably those:

- parents who are nationals of the Country of origin but living in Receiving Countries;
- ones who are nationals of neither country but living in one of them;
- cases in which parents live just temporarily in one Country.

The report refers to the following criteria based on a 2014 questionnaire and country profiles⁵ in considering the HR:

- living length of time;
- integration in the State (personal and social relations);
- main centre of professional activities and affairs;

- the intention to be established in a specific Country.

Besides the latter, the report points out the irrelevancy of the nationality in determining the HR.

In addition to such criteria, we should add those ones pointed out by the CJEU in its case law through the elaboration of a concrete test which clarifies that the determination of the HR of the child depends on the social environment surrounding the child, the degree of the child's integration and the family environment determined by the reference person with whom the child lives.⁶

Key role played by Central authorities in the determination of habitual residence

The report of the PB mentioned above also focuses on the key role played by the Central Authorities (CAs) in intercountry adoption cases, also where non-Contracting States are involved. Article 16 of THC-1993, should be considered as a reference for the specific duties that CAs should respect, such as the report evaluation that each CA has to carry out about the social and economic integration of the child in that specific Country, in order to determine his HR and ensure that the adoption process will take place in his best interests. The SC reiterated the encouragement, made by the previous SC of 2010, in promoting the respect of the principles and safeguards of THC-1993, especially in non-Convention cases.

Child centered approach: determination of the habitual residence in specific cases

The HR interpretation is unfortunately not uniform at the moment due to the divergent interpretations given in the framework of different jurisdictions. In the context of cross-border family disputes, especially in child

abduction cases, covered by THC-1980, according to a relevant case law⁷, the HR should be defined in the best interest of the child and taking into account the shared intentions of his parents that might affect the contacts established by the child in that specific Country.

Furthermore, due to many geographical movements, unclear situations may arise with regards to the HR of the child, in particular those cases including refugee children, internationally displaced children or those whose habitual residence cannot be established. THC-1996 and its Practical Handbook⁸ offer some concrete solutions in this respect that can be summarised as follows:

- Due to the lack of specific definition, the jurisdiction of necessity, given by article 6.2 of THC-1996, should be recalled by analogy, as it gives competence to States dealing with children deprived of parental care because of disturbances in their countries. This solution was made in particular for those situations in which the HR of the child cannot be determined due to the lack of "sufficient integration" in a specific country, and so the state of his physical presence will be, in this way, entitled to exercise its jurisdiction in the best interest of the child.
- The competence is also given to States under article 11 and 12 of THC-1996 concerning provisional and urgent measures. A concrete example of such a temporary or permanent competence of the State is the placement of unaccompanied children in institutions or direct child protection measures such as appointing parental responsibility on behalf of the relatives of the child as well as representing the child in asylum claims. This will allow the State of the physical presence of the child to be competent in urgent situations, ensuring a sufficient degree of stability for the child in that specific Country, essential for the child's welfare.

According to ISS/IRC, the comments made by the SC in 2015 should be reiterated with particular regards to the factual elements (child's perspectives and circumstances) and the best interest of the child in determining the habitual residence. Although as of today the lack of a specific definition still remains. The future outcomes raised by the Permanent Bureau should be considered as a reference for future harmonised interpretations. ISS/IRC reiterates the crucial importance of the determination of the habitual residence to prevent any form of violation of children rights that could occur for example in the context of expatriates undertake intercountry adoption in a country that does not recognise this child protection measure, a situation that ISS/IRC will analyse deeper very soon.

Sources:

¹See <https://assets.hcch.net/docs/858dd0aa-125b-4063-95f9-4e9b4afd3719.pdf>

² The court must determine the existence of a “particular connection” between the child and the foreign Member State. In this regard, the court will take into consideration the former habitual residence of the child, the place of the child’s nationality and the habitual residence of a holder of parental responsibility.

³ CJEU Mercredi v. Chaffe “C-497/10 PPU”,

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130d56eb606b58b9043c5a975ac95e1fc99c.c.e34KaxiLc3eQc40LaxqMbN4OchmKe0?text=&docid=83470&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=755807>

⁴ See <https://assets.hcch.net/docs/d10d006d-0f68-4246-94a4-9f1d1b9e88b1.pdf>

⁵ Available at <https://www.hcch.net/en/publications-and-studies/details4/?pid=6161&dtid=57>

⁶ *Supra* 3

⁷ Karkkainen v. Kovalchuk”, <http://caselaw.findlaw.com/us-3rd-circuit/1493035.html>

⁸ Available at <https://assets.hcch.net/upload/handbook34en.pdf>, page 25, article 2 (Scope) and 6 (State competence).

PRACTICE

Examples and reflection on the impact of labour migration on children, who remain in their communities of origin (Part I)

In the context of the current migration debate, the ISS/IRC has decided to focus this article on the impact of labour migration on those children, who remain in their communities of origin, whilst one or both parents have left the home or country to search for better economic, social and professional opportunities.

Labour migration is a phenomenon that affects all regions of the world – whether through domestic displacement or internationally – and a very considerable number of children, whether because they move with their parents or because they remain in the care of relatives, friends or organisations in their communities of origin. The present article and its second part in a forthcoming issue of the Monthly Review intend to briefly address this second situation and to reflect on its impact on the children ‘left behind’.

Worldwide examples

In China, for example, parents choose to work in cities far away and may go back home to stay with their family only once a year, for no more than seven days at one time as they cannot afford the transportation costs and need to keep their job. It is estimated that there are about 61 million ‘left-behind children’ in the country¹.

An article published by the Institute for War and Peace Reporting describes a similar situation in Tajikistan: children placed initially with relatives and subsequently in a children’s home and with very limited opportunities to have contact with their parents – apparently an increasing trend in

the profile of children in residential care, with some estimates mentioning 100,000 “orphans” whose parents are alive².

In Mexico, as reflected in an academic study, ‘migration has increased and with the latter, unprecedented phenomena have been generated. One of these is the unstructuring of the traditional forms of family and community organisation. In some cases migration has entailed the severance of the migrants’ social bonds with their place of origin; in others it has resulted in the redefinition and restructuring of the ties amongst its members’³.

In South Africa, another academic study found that ‘[t]emporary labour migrants overwhelmingly rely on a single care strategy. Complex care arrangements are far less common, constituting the response of only 5% of migrants. (...) The overwhelming majority of migrants keep all children in the same household, maintaining relative stability in care and residence, 10% move children with them, 2% move children elsewhere for care and less than 1% move a childcarer into the household while they are away for work. Less stable child care arrangements are increasingly utilised over time. (...) Approximately one-fifth of

children in the population are effectively left behind by temporary labour migrants today (...). There is significant variation in child care, residence and decision-making authority among relatives: mothers and stepmothers provide the majority of care in the absence of a migrant, with grandmothers a secondary and female siblings and aunts a tertiary source of child care.⁴

Whilst it is indeed difficult to estimate how many children are currently in this situation – given that migration is not always official, may be domestic or international, and that many children are placed in informal care – it is nevertheless essential to reflect on the potential consequences of these situations for the children affected⁵.

The impact of the parents' labour migration on children and families

There is no doubt that the absence of the parents in the child's daily life, whether when placed in a family environment or in residential care, has an impact on their well-being, development and rights. Indeed, even though children are traditionally placed with relatives, in many cases they may also subsequently be placed in homes and institutions, which affects their development and wellbeing on the long

In a forthcoming article, we will proceed to reflect on the actions that may be taken to respond to the particular needs of children 'left behind', taking into account the impact that the latter may have on their wellbeing and daily life, based on the existing international legal framework and some examples of interventions undertaken by the ISS network.

References:

¹ See: 'China to protect migrant workers' 'left-behind' children', *BBC*, 15 February 2016, available at: <http://www.bbc.com/news/world-asia-35581716>.

² IWPR, Labour Migration "Orphans" in Tajikistan, 7 April 2015, <https://iwpr.net/global-voices/labour-migration-orphans-tajikistan>.

³ Quecha Reyna, C., *Cuando los padres se van. Infancia y migración en la Costa Chica de Oaxaca*, winner of the third place for Best Research at UNICEF's Fourth Prize on 'The rights of children and adolescents in Mexico', http://www.uam.mx/cdi/pdf/s_doc/cuando_los_padres.pdf.

⁴ Kautzky, K., *Children left behind: The effect of temporary labour migration on child care and residence patterns in rural South Africa*, for the degree of Master of Public Health at the University of the Witwatersrand, Johannesburg, 2009, http://mobile.wiredspace.wits.ac.za/bitstream/handle/10539/7478/Microsoft%20Word%20-%20K%20Kautzky%20-%20MPH%20Research%20Report%20Final%20_3_.pdf?sequence=1.

⁵ Further resources on the impact of migration on children may be found on the Better Care Network, Children and Migration, <http://www.bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/children-and-migration>, e.g. Yanovich, L (2015). 'Children Left Behind: The Impact of Labor Migration in Moldova and Ukraine'. Migration Policy Institute; available at: <http://www.migrationpolicy.org/article/children-left-behind-impact-labor-migration-moldova-and-ukraine>.

⁶ 'China's left-behind children', *BBC*, 12 April 2016, available at: <http://www.bbc.co.uk/newsround/35998552>; and 'Counting the cost of China's left-behind children', *BBC*, 12 April 2016; available at: <http://www.bbc.com/news/world-asia-china-35994481>.

term and has an impact on their family, social and psychological situation. Indeed, a placement in residential care is, in most cases, the least desirable outcome and option for the child and should remain a temporary solution; nevertheless this is often not the case when the family separation is due to migration given that the parents retain parental responsibility and remain alive despite their physical absence.

Indeed, it cannot be said that these children are 'abandoned' or 'orphaned' through their parents' long-term absence, as the parents often move or migrate precisely to provide a better life for their children and may have some periodic contact – although sometimes not physically for months or years. On the other hand, however, the parents may not be able to take their children with them, and the children may therefore have feelings of confusion, guilt, abandonment that may affect various aspects of their daily life, such as their education, family and social relations, plans for the future, etc. The final objective may be to reunite the family, but in the meantime, the children do undergo a series of feelings and situations that affect them profoundly⁶.

INTERDISCIPLINARY RESOURCES

The Life Book: A tool to preserve the right to identity of children and adolescents

Aimed at capturing the story of those, who have been separated from their families by a decision of the Family Court, the Fundación San Carlos de Maipo (Chile)¹, has developed this log book, which helps them to preserve their identity and their memories during the process of institutionalisation.

It is worth mentioning the importance of overcoming the approach – which is currently practised in various children’s homes – of exclusively meeting the children’s basic needs and care and to move forward towards an approach that includes the reparation of the harm caused by the violations suffered. Thus, the *Fundación San Carlos de Maipo* decided to support the dissemination of the Life Book as a simple tool aimed at preserving the right to identity of those children and adolescents, who are placed in residential care homes, thereby generating inputs in order for this instrument to be replicated by any carer or technical team in children’s homes.

A web-accessible tool

Thus, the *Fundación* generated a pilot hub on the web where two models of life books may be found electronically which may be downloaded and printed for their use. Furthermore, a series of documents with the relevant theoretical support which justify the use of this tool, are offered as well as practical guides for the development of life books in accordance with the developmental stage of each child or adolescent.

A valuable resource

Throughout its pages, the child and their carer will be able to address several issues, aimed at preserving and capturing the child’s life story. This occurs through the illustration and/or recounting of events, experiences or relevant dates for them, their family and/or carers, thereby supporting them in their process of identity-building. Thus, the life book is meant to be a means of support that enables in the future to give sense to their experiences, to facilitate the reparation of harm and the re-connection with their family of origin. When this is not possible, the life book provides an attachment

with their foster or adoptive family. In addition, the life book is an instrument which helps the care giver who will be able to capture the child’s biographical information such as dates, relevant events or characteristics of the child.

An adaptable tool with defined criteria

The book may be adapted to the reality and needs of each child or adolescent. Thus, the general content is made of several chapters with different objectives². However, the *Fundación San Carlos de Maipo* suggests a series of important recommendations that should be taken into account by the person undertaking the task of developing the content of this life book:

1) *The participation of the child is central*: Given the subjective character of our experiences, the work undertaken with the child – by resorting to drawings, clippings, pictures, paintings, amongst others, to design their book – is essential;

2) *Under the care of an adult*: There must always be an adult, who is responsible for the book who protects its integrity and who allows the child’s access to the book. The adult supports the child in the process of development of the book which is why it is fundamental for that adult to be a significant person for the child;

3) *Periodic reviews by the team of carers* in order to benefit from a technical space of reflection for its development in order to avoid limited relevant content or content expressed inadequately which could harm the child in the future;

4) *Use of adapted terminology*, taking into account potential new interpretations of the meaning of some of the book’s content;

5) *In cases of lack of information*, due to doubts or lack of awareness, it is always better to provide an explanation of the reason for this lack of information thereby providing meaning and content through explanations;

6) *Flexibility and creativity*: Each person must demonstrate knowledge, experience and emotion in each theme that is being addressed;

7) *Documentation of each intervention* with dates, names and signatures given that, aspects of the child's life and privacy are addressed.

Those who develop the book with them have the responsibility to assume their words and interventions and to offer to the child the possibility, in the future to come back to these persons and to ask them about what is written in their book.

The ISS/IRC congratulates the *Fundación San Carlos de Maipo* for the development of this tool, which makes it possible to preserve and address each stage in the child's life, whether their pre-institutional past or their life in the institution, in a personalised manner, which may be adapted to each child, and with a view towards the future.

References:

¹ See: Fundación San Carlos de Maipo, Chile, <http://www.fsancarlos.cl/>.

² These address, amongst other issues: feelings, personality, initial moments in the institution, information on the family of origin, etc.

A good start: Advances in early childhood development

The Bernard van Leer Foundation – with over 50 years of experience in early childhood projects, reflects in its publication¹ the progress achieved in this regard, and promotes a global movement that would expand the scope of services aimed at the youngest children and their families.

The importance of early childhood development for the positive development of families, communities, countries and undoubtedly, to achieve a balanced world is increasingly clearer. The adversity experienced by children in their first years of life (child poverty, poor physical health, vulnerable family environment, and lack of learning experiences) has social and economic implications that last throughout time and societies. This issue divided into two sections, reflects the existence of solutions. Indeed, **investment in early childhood and in families has beneficial effects**, not only directly for the children and their environment, but also for current and future generations.

Supporting children and families from the beginning and throughout the first years

Six articles, which focus on **the importance of the first 1,000 days of life** that make early experiences decisive, reflect on how negative experiences affect the development of the brain. Improvement in the care provided during childbirth and neonatal care, improving **quality in maternal care**, as well as home-based assistance, which pursues an intervention based on helping mothers to promote the development of their children, are all measures that have an impact on the children and their families, and therefore also have a beneficial effect for their community. An

example is the programme of home visits from early childhood in Jamaica, and their improvement in Europe and Central Asia, aimed at strengthening the mothers' self-esteem, achieving that they enjoy their children by raising them, and informing them about development and child-rearing practices. Thus, it is essential that the professional is well trained and has the ability to listen, to request the mother's opinion, and to offer positive feedback, including teaching them to carry out activities with the children, which promote the development of their capacities depending on the child's age. '*Cuna más*' is another example presented in this issue, and which is implemented in Peru, where spaces for the care of children between the ages of six months and three years are offered during the mothers' working hours, whilst widening this care to a more comprehensive dimension, by improving the child's cognitive development as well as their physical, nutritional and emotional development.

Development of essential capacities for the expansion of the coverage

When addressing the above-suggested development, the Bernard van Leer Foundation highlights the need to improve capacity by addressing issues such as research and

mediation, quality control, funding and the development of leadership.

Thus, several projects which focus on the investment of additional resources in early childhood by governments and funders in developing countries are showcased. One example is carried out in Africa by the Children’s Investment Fund Foundation – an organisation that promotes investment in childhood – jointly with the World Bank. They created the Early Learning Partnership (ELP) which has provided technical assistance and funding to support early learning activities in Africa. ELP transferred over USD 55,000 to Sierra Leone with the government’s aim to establish obligatory pre-school education for children between the ages of three and five years; USD 40,000 to Uganda to increase the level of qualification of those professionals caring for young children; and has

been pursuing such support in Niger and Burkina Faso, among others.

Objectives by 2030

It must be understood that early childhood development is human development; thus, the objectives that must be reached by 2030 must focus on three different fronts:

- Communicate the importance of **healthy brain development** in early childhood by conveying this information to parents, carers, policy-makers and political heads, in order to increase the demand for attention on early childhood;
- **Expand children’s access** to early childhood programmes, and ensure their quality;
- Assess the results of early childhood development, by undertaking objective **monitoring and assessments** of the state of children.

One must highlight and value positively the importance of the new voices that have been arising over the last few years – with religious and civilian leaders, who promote early childhood – and reflect on how to further the latter by promoting policies and supporting them over time in order to create a more sustainable world starting with the youngest in society.

Reference:

¹ Bernard van Leer Foundation, *A good start: advances in early childhood development*, July 2015, Early Childhood Matters, Issue 124; available at: https://bernardvanleer.org/app/uploads/2015/12/ECM124_A-good-start-advances-in-early-childhood-development.pdf.

READERS’ FORUM

Amendments of the NSW Child and Young Persons Care and Protection Act (CYCP): Focus on adoption from foster care and open adoption

This interview aims to expose the legal and practical work currently undertaken in New South Wales- Australia (NSW) to promote adoption as a long term family solution for children in alternative care.

1. Could you describe the activities undertaken in NSW to promote adoption from foster care?

a. Legal amendments

The most significant legal amendments in NSW have actually been made to the 1998 CYCP¹. The amendments in October 2014 have changed the ‘Placement Hierarchy’ for children who are unable to reside with their birth parents due to being at risk of serious harm. “Placement Principles now require caseworkers

and the Children’s Court to consider adoption before long term orders for the child to remain in the care of the Minister until s/he turns 18”. In

practice this means that caseworkers and magistrates are required to look at adoption as an option for a child, and to either pursue this

where it is appropriate, or provide good reasons why it should not be considered.

b. Other political/practical activities

Names/ Functions:

Melissa Kaltner, Principal Research Officer, Open Adoption in out-of-home care (OOHC) Research Initiative

Nicole Martin, Manager Casework Adoption Services

Place: New South Wales (NSW) Australia

The *Institute of Open Adoption Studies* was announced on the 16th March 2016. It will lead research on adoption from care to ensure that we practice in an evidence based way. The Institute is an independent body which is funded by the NSW Government and involves collaboration with Barnardos Australia² and the University of Sydney. There's a wealth of international evidence on adoption from care, but very little from Australian settings, a gap that the Institute will address through its research activities.

Over the past two years, the Family and Community Services (FACS hereinafter) has also supported practice based research and training through the FACS *out-of-home care (OOHC) Adoption Research Initiative* to develop sector capacity for considering adoption for children in care. The Initiative includes a number of focused projects such as a statewide survey and interviews of OOHC and Child Protection practitioners to understand their attitudes towards OOHC adoption, their practice knowledge needs and the barriers they see to practice. The results of this survey were used to tailor training activities which are currently being rolled out in workshops across the state.

Another significant political outcome was a forum the Minister for Community Services ran in October 2015. This forum brought together adoptees, adoptive parents, birth parents, adoption/foster care professionals from both FACS and NGO's, Children's Court Magistrates and Supreme Court Judges importantly including young adoptees. The Minister for Community Services, the Premier of NSW and Senior Executive staff of FACS were present and are now better informed to make appropriate decisions about future legislative reform, practice changes and funding.

2. In what cases and for what reasons adoption should be prioritised?

Adoption provides a child with security, stability and permanency that is not offered by any other alternative care arrangement. It is our job as professionals, along with the wisdom and decision making powers of the Courts to identify children where adoption is in his/her best interests and work towards this outcome.

There is no published data on stability of Australian adoptions from care given the low number of children adopted to date. There is, however, a wealth of international data that adoption is more stable than other forms of care, including a recent British 5-year study of disruption rates for three types of permanent orders for children³.

In NSW the statistics show an increase of the rate of adoptions from foster care between 2009 and 2014.

Additionally, in light of the common need for security and attachment in children (as described recently by Tarren-Sweeney in his model of 'felt security'), Australian OOHC adoption appears to provide similar stability to that evident in international settings. We are currently collecting the evidence necessary to demonstrate this empirically and have a number of projects underway which address this, including studies on:

- children's outcomes in adoption relative to long term foster care;
- children and birth parents' experiences of adoption and on contact post adoption;
- sector attitudes and support needs as previously described.

3. In case of adoption from foster care, how are the foster family/the child/the biological parents assessed and prepared?

In NSW there are two ways a child can be adopted from foster care. The first is OOHC adoption – this is when a child has been in long term care for some time and his/her carers are applying to adopt him/her. The second way is what we call permanent care with a view to adoption. This is where we dually authorise couples as both adoptive applicants and foster carers. Children who have been removed from the care of their parents, and who are unable to be placed with extended family members are referred to our program for us to identify the most suitable family.

When this child's case is before the Children's Court, the Magistrate is informed that adoption is the preferred outcome for this child and that FACS will be placing him/her with authorised foster carers who are also approved adoptive applicants. On this basis, Parental Responsibility

is awarded to the Minister until the child turns 18, and then the child is able to be placed with his/her permanent carers. These carers are already approved as adoptive applicants, and this streamlines the adoption process – leading to an adoption order being made in a far shorter time frame and children exiting the care system earlier.

Preparation for the birth parents around the adoption decision making process under this model happens as soon as possible once it is identified that adoption is in the child's best interests. Child Protection caseworkers are guided by experienced adoption caseworkers about having these difficult discussions with parents about the plan for their child to be adopted. It is our experience that having these discussions early with parent/s not only is honest and transparent, and in some cases can prevent parents from choosing to contest an adoption order when it is sought in the future.

4. What are the advantages/risks of an open adoption?

In NSW all adoptions are open adoptions which means not only ensuring that a child is aware of his/her adoptive status, but also that contact with his/her birth family is occurring where ever possible. In the case of dual authorisation and also voluntary adoption, a significant requirement of approval as adoptive applicants is demonstrated views around openness and a willingness to have on-going contact with a child's birth parents and/or extended family.

For carers wishing to adopt the child in their care, it is expected that there will already be contact arrangements in place, or perhaps the

adoption process will be the trigger for contact occurring again where this may not have been happening.

There are some risks associated with open adoption, such as having contact with family who may have a history of violence, however these risks are assessed and plans are put in place to mitigate this risk.

In NSW, adoption of Aboriginal or Torres Strait Islander children very rarely occurs. This is in recognition of the fact that adoption is not a practice or recognised concept in these communities.

5. Which kind of professional support is offered to the parties involved in an open adoption process?

All birth parents, PAP's and the children in their care are supported by their caseworkers, independent assessors and if necessary legal representatives as they go through the adoption process. It is identified, however, that there is a very real gap in post adoption service provision for all parties to an adoption, and whilst some services do exist, they will require significant expansion if the number of children adopted in NSW continues to grow.

6. Do you have any publications/professional resources to recommend to our readers?

We have a number of materials we've developed for our staff including Facts sheets and workshops which may be relevant to other groups. In case you are interested please contact Melissa Kaltner, Melissa.Kaltner@facs.nsw.gov.au and/or Nicole Martin, Nicole.Martin2@facs.nsw.gov.au.

Sources:

¹ Children and Young Persons Act http://www.austlii.edu.au/au/legis/nsw/consol_act/caypapa1998442/

² Barnardos Australia, <http://www.barnardos.org.au/what-we-do/the-centre-for-excellence-in-open-adoption/>.

³ Selwyn, J., Wijedasa, D., & Meakings, S. (2014). Beyond the Adoption Order: Challenges, interventions and adoption disruption. UK Department for Education

FORTHCOMING CONFERENCES AND TRAININGS

- **Belgium** : *Children's Rights Matter : why Europe needs to invest in children*, Eurochild Conference 2016, Brussels, 5-7 July. For further information, see: <http://www.eurochild.org/events/eurochild-conference-2016/>.
- **France**: **a)** *Le temps: un ennemi qui vous veut du bien, Comment mieux l'appréhender pour mieux protéger (Time : an enemy that wants your best, how to better understand it to be better protected)*, 9th National Conference on child protection, Journal des Acteurs Sociaux, Département de la Moselle and Observatoire national de l'Action Sociale, Metz, 13-14 June 2016. For further information, see : <http://www.lejas.com/>.
- **South Korea**: *Promoting the Dignity and Worth of People*, SWSD Joint World Conference on Social Work, Education and Social Development 2016, Seoul, 27-30 June. For further information, see <http://www.swsd2016.org/>.
- **Turkey**: *Social Problems and the future of social work*, International Social Work Congress 2016 (ISWC16), Hacettepe University Convention Center Beytepe, Ankara, 21-23 November, Call for Abstracts until 1 August. For further information, see: <http://www.sh2016.hacettepe.edu.tr/en>.
- **United Kingdom**: **a)** *Supervising and Supporting Foster Carers*, CoramBAAF, Leeds, 8 June; **b)** *Making good adoption assessments*, CoramBAAF, Bristol, 29-30 June; **c)** *Out of place – recognizing, understanding and responding to the health needs of looked after refugee and trafficked children and young people*, CoramBAAF, 27 June. For further information, see: <http://www.corambaaf.org.uk/training>.
- **United States of America**: *Keeping Attuned with Children and Families*, 30th Annual Conference, Foster Family-based Treatment Association, New Orleans, 10-13 July. For further information: http://www.imis100us2.com/ffta/FFTA/Conference/New_FFTA_Content/Conference/Conference_Info.aspx?hkey=9543eb6f-dd64-48b3-bb47-dd0f1258e077 .

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