

Adoption: is it a solution to child protection and childlessness in couples?

Across Australia there is a movement to have adoption more aggressively applied as a means of solving the problems attached to an increase in the number of children entering child protection services and as a means of accommodating the needs of couples who cannot have children.

The movement is being spearheaded largely by celebrities and enjoys access to large sums of private funding from celebrities. Our previous Prime Minister (Abbott) became close to celebrities and was persuaded by them to draft a national policy and action on the matter. Our current Prime Minister (Turnbull) has not taken a more cautious approach and we are now likely to have a decision taken at a meeting of the Prime Minister and the state Premiers at a forthcoming Council of Australian Governments (COAG) to adopt a national approach based on the practices in NSW (one of our more populous states that does not do an adequate job of provision of child protection services and which is looking for a quick fix).

There are many agencies in Australia, including Grandparents Victoria/Australia, who are concerned about these developments. The genesis and tone of the discussion is only one aspect that concerns us. The major worry is that adoption is being seen as the perfect answer. This despite the fact that in recent years both the Australian Government and some State Governments have made formal apologies in parliament regretting the adoption practices of the past.

State governments are setting up legislative frameworks that make adoption easier. For example, young parents are given only twelve months in Victoria before the department can take children permanently off the parent/s.

We are not against all adoption but need to be convinced that each case is thoughtfully assessed, with not only the needs of the child in mind but also those of the parents and the extended family, including the grandparents. Further, we believe that:

- all adoption should be open adoption with ready access for the biological parents and extended family
- children who are adopted out should be issued with two certificates – a birth certificate recording the truth about their biological parents and a parenting certificate continuing information about their adoptee parents
- all adoptions should be subject to regular review to gauge the wellbeing of the child with such review to include interview of the child
- all children, even those under 18, should be able to apply for annulment of the adoption.

These conditions have been agreed after conversation with both parents who gave their children up and children who were adopted, put together with the views of grandparents of course. Many of our member grandparents felt that adoption belonged to the past and that more open and responsive options should be supported.

The conditions outlined above compliment those surrounding biological parenting and long term permanent parenting in the state of Victoria and are not an outrageous stretch for this nation to make.

The conditions also support the findings arising from a study of adoption undertaken by the Australian Institute of Family Studies in 2012 (key findings included and executive summary attached as a separate document)

As is always the case we have also referred to the clause in the UN Convention on the Rights of the Child which most tightly pertain to this issue. (included)

I have included in this newsletter an additional paper. It was from the perspective of mothers who were encouraged to give their children up for adoption and one by a good of adults who were adopted out of their family.

We have rich data of our own upon which we can draw. However, I would very much appreciate any papers or views you might be able to share with us. I would also enjoy your personal comments.

Cheers Anne McLeish

The UN Convention on the Rights of the Child and adoption

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.



Past Adoption Experiences

National Research Study on the Service Response to Past Adoption Practices

Research Report No. 21 – August 2012

Summary of key conclusions

Key needs and priority actions

Across the various respondent groups, despite the range of views and issues raised, there are some important areas where the majority of participants aligned in identifying the needs and priority actions for responding to the ways in which closed adoption has affected their lives. These included:

- acknowledgement and recognition of past adoption practices (including the role of apologies and financial resources to address current service and support needs);
- raising community awareness of and education about past adoption practices and their subsequent effects;
- specialised workforce training and development for primary health carers, mental and broader health and welfare professionals to appropriately respond to the needs of those affected;
- review of the current search and contact service systems, with a commitment to develop improved service models;
- improved access to information through the joining of state and territory databases, governed by a single statutory body;
- improved access to and assistance with costs for mental, behavioural and physical health services; and
- ensuring that lessons from past adoption practices are learned from and translated where appropriate into current child welfare policies, and that adoption-specific services are created or enhanced to respond to the consequences of past practices.

Direct services and supports

Direct services and supports relate to a continuum of care that recognises the importance of appropriate and targeted responses at all levels of engagement; from the first point of information-seeking, to the lifelong need by some people to "move in and out of" varying levels of support. The service options identified, based on the experiences and expressed needs of participants in this study, include:

- 24-hour access to advice, support, information and referral services;
- availability of peer support groups, featuring a diversity of options for delivery;
- adoption-specific support services (post-adoption support), offering a "one-stop shop" for accessing information, search, contact and ongoing support/referral to appropriate professionals;

- availability of professional one-to-one support/counselling/therapeutic interventions, delivered by psychiatrists, psychologists, psychotherapists and other professionals who have had specialised training or experience in adoption-related issues, such as trauma, relational interactions, attachment and abandonment;
- priority access to medical, psychiatric and psychological services to address the physical and psychological health consequences of their adoption experience;
- availability of professionals to support other family members; and
- availability of primary and allied health services professionals who are trained to understand the potential effects of adoption on their service users as it relates to accurate and appropriate diagnosis and referral to appropriate support interventions.

Information and resources

Information and resources identified by study respondents that would help facilitate broader public and professional awareness include:

- publications that explain the history of adoption, the common reasons for adoption and the common emotional outcomes;
- a series of short, easy-to-read and well-presented fact sheets on key aspects of the issue (such as the mothers' experiences, the adopted persons' experiences, the adoptive parents experiences, other family members' experiences, how to find information about your birth family, and so on);
- information resources for wider family members, with advice on how to best support their loved one who is affected by adoption;
- a booklet that contains stories of people affected by past adoptions - in their own words - that gives insight into a variety of experiences, and that could be distributed widely in doctors' waiting rooms and the like; and
- a comprehensive website about adoption.

Key features of good practice

Our study suggests that "good practice" should involve implementing improvements to service provision through information delivery, search and contact services, and other professional and informal counselling and supports.

- Good information services (including identifying information and access to personal records):
 - are delivered by trained staff;
 - are provided through websites, moderated interactive sites ("chat rooms") and/or 24-hour phone lines;
 - are provided with sensitivity to the needs of those seeking it (confidentiality, discretion, language used, etc.);
 - are relevant to the "stage of the journey" of individuals; and
 - have a range of support levels (e.g., access to support person onsite and in follow-up).

- Good search and contact services:
 - enable access to counselling and ongoing support during the search and contact journey;
 - use an independent mediator to facilitate searching for information and exchanging information; and
 - address expectations before contact is made and provide ongoing support afterwards.
- Good professional and informal supports:
 - incorporate adoption-related supports into existing services (such as services funded by the Australian Government's Family Support Program, Medicare-funded psychological services or other state/territory-funded programs);
 - provide options for both professional and peer supports; and
 - address trauma, loss, grief and identity issues.

Footnotes

[a](#) Terminology used to describe study participants is discussed in detail in Chapter 2. For the purposes of this report, the terms "mother" and "father" refer to the biological parents except where clarity is needed to distinguish between both sets of parents. In this instance, the terms "birth" and "adoptive" parents are used; however, we acknowledge the sensitivities relating to the use of this language.

[b](#) As with all cross-sectional research, our methods do not allow us to determine whether these higher rates of mental health problems can be attributed to their adoption experience, or to other factors.

[c](#) Forgotten Australians are adults who spent a period of their childhood or youth in children's homes, orphanages and other forms of out-of-home care, up to 1989. At least 500,000 children grew up or spent long periods in this institutional care system in the 20th century, which was the standard form of out-of-home care in Australia at the time.

[d](#) Former child migrants are adults who were sent to Australia as children as part of inter-governmental child migration schemes in the period following World War II (up to the 1970s), and who were subsequently placed in homes, orphanages and other forms of out-of-home care. It is estimated that around 7,000 children were sent to Australia from the United Kingdom and Malta under these schemes, of which about 6,700 were from the United Kingdom.

TWO HUNDRED YEARS LATER

Albert Einstein's definition of insanity is doing the same thing over and over again and expecting different outcomes.

Brenda Richards, Psychiatric Social Worker.

Formerly Children's Court Clinic and Founding Member, Council for Single Mother and Child



Not long ago we apologised for the atrocities of the stolen generation, when we took children from indigenous communities 'for their own good.' Last week we apologised to the single mothers of the 60s and 70s, when we adopted out their babies with coerced consent and at times with none at all. For their own good of course.

The Cummings¹ report is recommending that the Department of Human Services should 'seek parental consent to adoption' where children cannot be reunited with their biological family or permanently placed with an extended family member.' Where such consent is not given they recommend seeking 'the dispensation of parental consent to adoption for (those) children. That is, adoption without consent. For the children's own good, of course. There are a number of assumptions involved in this plan.

Firstly, that a family that is currently not coping, will always be in that situation. Circumstances can change, people can change. Nothing is set in concrete in human relationships.

Yes, there are some children who cannot remain living in the home, and for whom some more permanent arrangements are needed. And yes, sending a child back and forth between foster care and a dysfunctional family is not the answer. But neither is severing all ties to the family and pretending the child belongs to another one. Permanent foster care, with as much contact as possible with the family of origin, takes time and energy, but it keeps the psychological links so that the child has some hope of having a relationship with the family in the future, even if only when reaching independence.

There is also the belief that adoption is in itself, permanent and will provide a safe two parent family for the child. We know the high percentage of breakdowns in the nuclear family today. Adoptions breakdowns are also not uncommon. And the combination of the two adds extra stresses. The addition of a high needs youngster is likely to quicken the break-downs. Their world is more fractured than ever.

Every time a child is removed from a family, it is another failure, another load of guilt. The child feels personally at fault for the breakdown. Even more so in adopted families. They are not good enough. What do we do then? Have 'serial adoptions'?

What adoption does do, however, is get the child and family 'off the books.' No longer are they the responsibility of the Department of Human Services. The costs have been removed. That is, until the next breakdown. This short sighted accounting is at best, wishful thinking. At worst, I hate to think. In the long term it is certainly likely to cost more in dollars and cents and human misery.

But the report doesn't stop there. It also suggests nobbling any legal opposition to the Human Services plans. The Children's Court Clinic works as an independent assessor for the court, under the jurisdiction of the Justice Department. This is described in the report as 'adversarial.' Not to the child and family, but to the perception of the Department of Human Services. The Clinic may have the temerity to make an alternative recommendation to the court in some cases. The answer is therefore to remove the Court Clinic from the scene and place it under the auspice of the Department, with no powers to make recommendations. This is a bit like placing Legal Aid under the auspice of the Prosecutors Office.

One would think that if the welfare of the child and family are the major concern, it would be in everyone's interests to have a totally independent body involved in the assessment of the case. An assessment arranged by the Department has an inherent bias, albeit not a conscious one.

But like the late night sales pitch, there's more. It is recommended that the Court should not be involved in querying any case plan decisions. 'The court should not exercise jurisdiction in the day-to-day management of the life of a child in need of protection. That role should be the Administrative responsibility of the Department of Human services. If it needs reviewing, it can go to VCAT.

If we follow these recommendations, in another generation or two, we will be apologising for the horrific practices carried out with no doubt, the best will in the world.

They are a guarantee of failure.

Two hundred years later, and still we can't get it right.

¹ A 2011 -12 Victorian state enquiry into the protection of children in Victoria