

Adoption in Australia

Review and reflection

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In Australia the rate of local or 'known' child adoptions is very low. Figures from the US and the UK (England only) are presented to highlight this issue. Adoptions from State 'care' are especially low compared with these other countries. This article explores public and professional commentary that may have contributed to the decline in the use of adoptions in Australia. Given that adoption offers the most permanent alternative care arrangement, suggestions are then made as to how adoption might become a more frequently used route out of State care for some Australian children.

The rate of child adoption is very low in Australia. The data from the US and England in this article provide an international context for examination of this issue. It is suggested that across the last two decades or more, professional and public commentary in Australia about institutional care and other forms of out-of-home care may unintentionally have contributed to this low usage of adoption as a route out of State care. The article concludes with some practice suggestions about how new interest in adoption by the public as well as child care and protection personnel might be encouraged.

WHAT THE FIGURES SAY

As at 30 June 2005 there were 585 adoptions in Australia during the preceding 12 month accounting period. This is an increase of 83 (16.5%) from the preceding year (AIHW 2005).

KNOWN AND LOCAL ADOPTIONS

Only 86 (14.7%) adoptions were 'known' adoptions. Known adoptions are adoptions where a child (or children) has a pre-existing relationship with the adoptive parent(s). Included are adoptions by step-parents, other relatives or carers, i.e. foster parents or other non-relatives. Of these adoptions, 52 (60.5%) were by step-parents, 29 (33.7%) by foster carers and 5 (5.8%) by another relative who was caring for the child before the adoption proceedings. 'Known' adoptions increased by 27 (31.4%) from 2003-04 (AIHW 2005).

A further 65 (11.1%) adoptions were local adoptions. Local adoptions are adoptions of children born in Australia or permanent residents of Australia but who generally have had no previous contact with the adoptive parents (AIHW 2005). There was a small decline in this category of adoptions from 73 in the year 2003-04 to 65 in 2004-05 (AIHW 2005). These 65 children plus the 29 from foster carers and the 5 adopted by kin other than step-parents are those most likely to have been adopted from the 'care' system, although this is not made entirely clear in the AIHW 2005 report. That is 99 (0.42%) children from an in-care population at 30 June 2005 of 23,695 children and youth aged 0-17 years (AIHW 2005). This statistic vividly illustrates the extent to which Australian child care and protection authorities do not

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pursue adoption from care as an alternative for some children who cannot live with their natural parents.

INTER-COUNTRY ADOPTIONS

The remaining 434 (74.1%) adoptions were inter-country adoptions. Inter-country adoptions are the adoption of children from countries other than Australia. In comparison with 'known' and local adoptions, the number of inter-country adoptions in 2004-05 increased by 64 (17.3%) from 370 in 2003-04. This 64 represents 77.1% of the 83 increase in total Australian adoptions (AIHW 2005).

The trends are not new and can be mapped over the two decades 1984-85 to 2004-05. Tables 1, 2 and 3 show this data.

ADOPTION AGE

More than one-third of all children adopted in Australia in 2004-05 were aged less than 1 year. For local adoptions, this was as high as 88%, while for inter-country adoption, 37% were under 1 year of age and a further 30% were just 1 year of age. In contrast, 95% of the 'known' adoptions were children aged 5 years or over (AIHW 2005).

INTERNATIONAL DATA

Not surprisingly, adoption figures in the US and England are collected in a different form to the Australian data, and these records do not necessarily cover the same time periods. As a result, a direct comparison of the adoption data is not possible. The figures that are available do allow for a 'barebones' examination of some aspects of adoption in the three countries.

UNITED STATES

In the US, across the 16 year time period 1987 to 2002, adoptions increased from 118,449 to 126,000 (AFCARS 2004; NAIC 2004). These figures are based on public and private agency returns that include kinship and inter-country adoptions. This is an increase of 7,551 (16.7%) across this time. Table 4 presents this data.

In this regard it is worth noting that the US Adoption and Safe Families Act 1997 hastened the termination of parental rights to facilitate the adoption of children from care.

Table 1. Adoptions (all categories) by State and Territory, 1984-85 to 2004-05

YEAR	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	TOTAL
1984-85	623	631	331	293	222	97	74	23	2,294
1989-90	360	212	278	128	174	71	50	21	1,294
1994-95	260	145	179	127	108	12	18	6	855
1999-00	154	122	105	78	59	19	24	4	566
2003-04	115	120	65	59	79	26	33	5	502
2004-05	154	161	84	49	77	23	20	17	585

Adapted from: Australian Institute of Health and Welfare (2005), *Adoptions Australia 2004-05*, Canberra, p.5, Table 1.

Table 2. Local adoptions by State and Territory, 1984-85 to 2004-05

YEAR	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	TOTAL
1984-85	na	na	na	na	na	na	na	na	na
1989-90	144	135	128	27	74	26	7	6	547
1994-95	127	67	63	26	12	8	6	2	311
1999-00	31	34	24	10	3	2	2	-	106
2003-04	24	23	14	3	6	1	2	-	73
2004-05	24	16	13	4	2	2	3	1	65

Adapted from: Australian Institute of Health and Welfare (2005), *Adoptions Australia 2004-05*, Canberra, p.9, Table 2.

Table 3. 'Known' child adoptions by State and Territory, 1984-85 to 2004-05

YEAR	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	TOTAL
Relative adoptions									
1989-90	na	27	120	81	59	22	11	7	na
1994-95	48	19	95	92	61	2	3	-	320
'Known' child adoptions									
1999-00	68	12	21	43	-	3	11	-	159
2003-04	25	11	2	12	1	3	5	-	59
2004-05	42	13	6	16	1	3	5	-	86

Adapted from: Australian Institute of Health and Welfare (2005), *Adoptions Australia 2004-05*, Canberra, p.20, Table 11.

Furthermore, the Federal authorities pay adoption bonuses of US\$4,000 per child and US\$6,000 per special needs child to the States for each adoption from foster care over the number of such adoptions in the preceding year. In 2000, US\$20 million in bonuses was paid to 42 US States under these arrangements (Roche 2001).

Table 4. US adoptions selected years 1987 to 2001

YEAR	TOTAL (public, inter-country, private independent and kinship)
1987	118,449
1989	121,586
1990	118,138
1991	118,730
1992	126,951
2000	127,630
2001	127,407
2002 ¹	126,000 ²

From: National Adoption Information Clearinghouse (2004).

NOTES

¹ From: the AFCARS Report, 30 September 2004, Children awaiting adoption.

² Children 16 years where parental rights have been terminated and where the goal is emancipation are excluded.

Table 5. Number of foster care admissions in 7 selected US States and percentage discharged to adoption by year of admission

YEAR	NO. OF ADMISSIONS	% DISCHARGED TO ADOPTIONS (AS AT 31/12/2002)
1990	49,283	17.9%
1991	49,177	19.6%
1992	46,451	20.6%
1993	45,692	21.3%
1994	49,810	21.4%
1995	45,236	20.7%
1996	49,139	20.7%
1997	48,604	20.5%
1998	48,519	16.5%
1999	45,783	12.7%
2000	44,303	7.7%
2001	45,603	3.5%
2002	44,074	0.8%

From: Wulczyn, Hislop & Chen (2005).

Data is also available from the Chapin Hall Multi-state Foster Care Data Archive for seven selected States (Alabama, Florida, Illinois, Missouri, New Jersey, New York and Ohio). This data reports the number of adoptions from out-of-home care in these States for the 13 year period 1990 to 2002 (Wulczyn, Hislop & Chen 2005). Table 5 shows this data. It shows that the percentage of adoptions from foster care in these States runs at around 20% per annum with such adoptions peaking roughly 5 years after a child's admission to care.

Table 6. Number of 'looked after' children in England adopted from care - 31 March, 2001-2005

	2001	2002	2003	2004	2005
Number	3,100	3,400	3,500	3,800	3,800
% of all adopted children	5%	6%	6%	6%	6%

Adapted from: Department of Education and Skills, Children looked after in England (including adoption and care leaver): 2004-2005.

Table 7. Number of 'looked after' children in England adopted by foster carers - 31 March, 2001-2003

	2001	2002	2003
Number	430	550	540
% of all adopted children	14%	16%	15%

Adapted from: Department of Education and Skills, Children adopted from care in England: 2002-2003.

ENGLAND

In 2000 in England the government committed £66.4m to support the adoption effort. The target set was for an increase in the number of adoptions from care of 40% over a 5 year period. In the year 2004-05, children adopted from care (known as 'looked after children') numbered 3,800. This is the same as in the preceding year and 700 more than 5 years earlier in 2000-2001. Table 6 presents this data.

The 3,800 adoptions in 2004-05 represent 6.2% of the 60,900 children who had been 'looked after' for more than six months at 31 March 2005. In terms of age at adoption, 210 (5.5%) were aged under 1 year, 2,300 (60.5%) were aged between 1 and 4 years, while 1,100 (28.8%) were aged between 5 and 9 years (Department of Education and Skills 2005, Table 3). Finally, Table 7 shows how many children were adopted in England by foster carers in the period 2001-2003.

This US and English data, while limited, paints a startlingly different picture than that which is found in Australia. Adoptions from care in the seven US States and in England are on the increase. Portugal, France and New Zealand also use adoption as a route out of care more than Australia, whereas Luxembourg, Austria, Finland and the Nordic countries (Norway, Denmark and Sweden) use adoption less than Australia (Thoburn 2005).

MAPPING ADOPTION LEGISLATION AND POLICY

These figures need to be viewed against adoption legislation and policy.

The first attempt to comprehensively map this territory was published in 1992 (Boss 1992). More recently this task has

fallen to the Australian Institute of Health and Welfare which annually produces adoption statistics and provides a commentary on adoption trends and on changes in adoption legislation (AIHW 2005). The first part of the Boss study provided an overview of the issues that were affecting adoption practice in the late 1980s and early 1990s (Boss 1992). Firstly, there was a decline in the number of children available for adoption as a result of advances in sex education, birth control measures and the availability of abortion. Next, the availability of income support programs for single parents and the increasing acceptance of single parenthood together with the availability of counselling for potentially relinquishing mothers, so that they could explore alternatives to adoption, are also mentioned. Boss makes reference to 'open' rather than 'closed' adoption and the drive for information to be freely available for relinquishing parents about the child they allowed to be adopted, as well as for adopted children to have information about their birth parents as they reached maturity (Boss 1992).

Since Boss's (1992) work, adoption law in Australia has undergone important changes. All States and Territories have now passed legislation that provides for young people aged 18 years and over and their adoptive and birth families to have selective access to adoption information (AIHW 2005; O'Halloran 2006). An example of recent adoption legislation, the NSW Adoption Act 2000, in chapter 8, parts 2, 3 and 4, covers access to birth certificate and other information, advance notice of the intention to seek information and contact vetoes, while Part 5 sets out the legislation framing a reunion and information register. Encouraged by this and similar legislation in other jurisdictions (see AIHW 2004, appendix 3, p. 41), we now have an array of post-adoption support and guidance services for adoptive parents and services for adopted children who engage in the search for and reunion with birth parents (Benevolent Society 2005). Clearly, 'closed adoption' that was once favoured is gone forever (Alty & Cameron 1995; AIHW 2005; O'Halloran 2006), even though the result of this change may arguably be a smaller pool of potential adopters.

PUBLIC COMMENTARY THAT MAY DETER

There are a number of recent public and professional commentaries that may provide some further understanding as to why adoption, with the exception of overseas adoption, is so out of favour in Australia. For example, the NSW inquiry into adoption practices (NSW Legislative Council Standing Committee on Social Issues 2000) drew attention to the way in which women in an earlier era who gave birth outside marriage were encouraged, and sometimes coerced, into giving up their child for adoption. This was an experience many regretted, and regretted even further when they found in later life that they were unable to trace the child 'they bore yet gave away', to cite Howe's evocative

words (Howe 1991). These inquiry findings could be viewed by potential adopters as a strongly pro-birth family argument and against the practice of adoption.

There have also been a number of public inquiries that have resulted in well publicised reports that highlight the abuse of children in out-of-home care following their removal from parental care. The first of these was the 'Bringing them home' report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (HREOC 1997). Other reports, such as the federal *Lost Innocents, Forgotten Australians* and *Protecting Vulnerable Children* reports (Senate Community Affairs References Committee 2001; 2004; 2005), and other inquiries (Forde 1999) have covered both Aboriginal and non-Aboriginal children placed in out-of-home care.

The dilemma is that the messages from all these reports can easily be viewed by both professionals and potential adopters as indicating that children should whenever possible be left with their birth parents. Some of these reports provide evidence that parental abuse or neglect may be no worse than that which has occurred in institutional care and in foster care (Crime and Misconduct Commission 2004).

PROFESSIONAL COMMENTARY THAT MAY DETER

All States and Territories now have legislation that provides for young people aged 18 years and over and their adoptive and birth family to have selective access to adoption information (AIHW 2005). By now there are also well publicised services for adopted children who engage in the search for and reunion with birth parents. This is a far cry from adoption practice in an earlier era when a clean-break philosophy meant that once an adoption was formalised, records were sealed and information about birth parents was generally unobtainable (Haimes & Timms 1985; O'Halloran 2006). In fact, names were changed and an adopted child became the child of their new family. To all intents and purposes the birth parents disappeared for ever.

The move from 'closed' to 'open' adoption was supported, and advocated for, by most adoption professionals (Fratter 1991; Triseliotis 1991) although, at the time, somewhat less so by adoptive parents (Churchman 1986). Whether or not the change in adoption, that began as a service for childless couples and became a service for children (Haimes & Timms 1985), has reduced the number of potential adopters remains a point for debate. It may of course be that a proportion of childless couples who might have been adopters are now able to use IVF programs to give them the child they want. In that regard it is worth noting that in 2004 there were 6,000 IVF assisted births in Australia (Mitchell & Malden 2005).

The professional commentary has also been heavily reinforced by the child care and protection system's enthusiastic embrace of family preservation and family reunification philosophies. The philosophies of family preservation (McCroskey & Meezan 1997; Whittaker, Kinney, Tracy & Booth 1990) and family reunification (Ainsworth & Maluccio 1998; Pine, Warsh & Maluccio 1993) all contribute to an overwhelming view that to remove children permanently from a family, no matter how limited the family may be, is not 'best practice'. These views may have been communicated to potential adopters by media (radio, TV and press) reporting about family preservation and reunification practices when case errors have resulted in harm to children. These reports may also have given the impression that expert opinion favours children staying with their birth parents rather than having children looked after or adopted by others. Both family group conferencing that emphasises new directions in child and family practice, and the strong emphasis on kinship care may also have compounded these perceptions (Ainsworth & Maluccio 1998; Burford & Hudson 2000; Geen 2004).

In fact, many child care and protection workers may never have been a party to an adoption. As a result they may only see family preservation, family reunification and permanent long-term foster care as the options. As a possible route out of care, adoption gets little mention.

SOME ORGANISATIONAL AND PRACTICE FACTORS

At an earlier point in time, child care and protection practitioners used to carry mixed caseloads. Thus, a caseworker might provide support services to one family in order to prevent a child from being admitted to care while simultaneously arranging foster care or a residential placement for a child in another case. These practitioners also played a part in the recruitment of foster carers, handled adoption enquiries and assessments and, when necessary, finalisation of an adoption order. This meant that they were aware of the full range of case options and that they constantly considered their case interventions against the full range of possibilities.

In comparison, we now have State and Territory departments organised in such a way as to favour specialised work loads where personnel have responsibility generally for one area of service only – child protection investigation and substantiation; family support; out-of-home care; foster care recruitment; or adoption assessment and finalisation. There is a question as to whether these arrangements, while organisationally desirable, have also made practitioners less likely to consider adoption as a case option.

In NSW the Department of Community Services often seeks Children's Court orders that place very young children in a long-term (non-relative foster care or kinship care)

placement until the age of 18 years. This is seen as a fulfilment of the department's commitment to permanency planning (Children and Young Persons [Care and Protection] Amendment [Permanency Planning] Act 2001). This practice places long-term foster care placement and adoption on the same footing and possibly deters full exploration of adoption as an alternative to long-term foster care. In contrast, 'permanent care' orders were introduced in Victoria in 1992 to overcome the uncertainty often associated with placing children on guardianship or custody orders. These are noted in the Australian Institute of Health and Welfare adoptions report as an 'alternative to adoption' (AIHW 2005). In comparison, Testa (2002), writing about subsidised guardianship in Illinois, describes guardianship as a supplementary permanency option to adoption. Thus, Illinois has extended the range of out-of-home placement options (short-term foster care, long-term foster care, residential treatment, subsidised guardianship and adoption). In comparison the Australian experience points to a reduction (less use of residential placements and adoption) in the number of placement options.

SAME OR DIFFERENT?

But are long-term placements and adoptions the same? Do they provide a child with an equal sense of stability, permanence, source of identity and connection to birth family and community? Curiously, while adoption legislation gives attention to 'openness' and the conditions that apply to access to child-birth parent information, including support for adoptee-birth parent reunion, the same conditions do not apply to children in long-term foster care placements. Instead, the Children's Court regularly makes contact orders for children in long-term placement that limit birth parent contact. In addition, if the Children's Court does not make an order for contact between a child and his/her birth parents, then this will be entirely at Departmental discretion.

It is important to acknowledge that not all cultural or ethnic groups favour adoption. This is well illustrated in relation to adoption of Aboriginal children in Australia. Between 1991-92 and 2004-05, only 120 Aboriginal children were adopted and only 40 were adopted by an Aboriginal relative. This is compared to an in-care population in 2004-05 of 23,695 of whom 5,678 are known to be Aboriginal – that is, slightly less than 25% of the out-of-home care population. Most of these children were placed in accordance with the Aboriginal Child Placement Principle with extended family, within an indigenous community or with other indigenous people (AIHW 2005). Whether or not this type of principle should be applied to all population groups warrants examination. Certainly, the widespread use of kinship care indicates a readiness to maintain children within their own ethnic, cultural or religious group.

Finally, there is a question about whether or not the increasingly multi-cultural make up of the Australian population is in itself diminishing interest in adoption. Like the Aboriginal population, many ethnic groups have a preference for permanent family placement with kin rather than adoption (Thoburn, Norford & Rashid 2000).

The growth of the Australian out-of-home care population and the national shortage of foster carers certainly encourages the view that we should re-examine the potential for adoption to provide a way out of State care for some children.

WHERE TO FROM HERE?

If long-term placement in non-relative foster care or kinship care, secured by legal guardianship in appropriate cases, possibly provides the same stability, permanence, source of identity and connection to the family of origin for a child as does adoption, then maybe any concern about the decline in adoption in Australia is misplaced. Indeed, this concern may be an expression of the needs of childless couples to have a child and not about children who might benefit from adoption. If it is, then maybe the needs of childless couples are best addressed, as noted earlier, through IVF treatment rather than by way of adoption.

If not, then a national campaign promoting adoption especially of children from care seems long overdue. Such a campaign needs to remove any stigma associated with local or known adoption as a result of past errors in practice and the coercive and unhelpful way in which adoption was pursued. A recent report from the Urban Institute in the US analyses interest in adoption and reviews recruitment strategies (Macomber, Zielewski, Chambers & Geen 2005) and is helpful in that regard.

If adoption is to be revitalised in Australia, then there will certainly be a need for schools of social work to review their curriculum and ensure that newly graduating social workers hold contemporary attitudes towards adoption. The aim should be for graduates to favourably promote adoption where circumstances indicate that a child in care is unlikely to be safely reunited with their birth parent. Given the evidence that a number of children are adopted by their established foster carers, it seems that this prospect should also be vigorously pursued. Finally, legal reform may need to be put in place to obligate State and Territory departments responsible for out-of-home services and the Children's Court to review the cases of all children in care for more

than 12 months with a view to expediting the adoption of these children. In 2004-05, of the 65 local adoptions, there was only 1 case where a dispensation from consent was made by a Court. All the other 64 adoptions were consented to by mother or father or both parents depending on the different State legislative requirements (AIHW 2006). The legal issues surrounding birth-parent consent to adoption and dispensing with parental consent may also need to be re-examined, although this is bound to be a controversial step as any action would take us closer to the US position where parental rights are terminated against stringent time lines.

The growth of the Australian out-of-home care population and the national shortage of foster carers certainly encourages the view that we should re-examine the potential for adoption to provide a way out of State care for some children. ■

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