

## **Report on workshop on intercountry adoption: Interdisciplinary perspectives on Intercountry Adoption in Australia: History, Policy, Practice and Experience**

This workshop was funded by the Academy of the Social Sciences in Australia in conjunction with the Schools of Political and Social Inquiry and Philosophy (PSI) and Historical and International Studies (SOPHIS), Monash University, the Australian Catholic University and the Intercountry Adoption Branch of the Department of the Attorney-General. The event was held at Monash University, Caulfield Campus on 30 September and 1 October, 2010. It was convened by Denise Cuthbert (Monash).

This event, which was closed to the general public, was designed to bring together policy makers, social science researchers and members of adoption communities to consider the origins, present practice and future of intercountry adoption (hereafter ICA) through the interdisciplinary lens provided by a range of social science disciplines including history, sociology, demography, law, social work, and anthropology. The workshop comprised a two-day program which included presentations by 15 speakers (including several early career researchers). The workshop was also able, with support from Monash University and the Australian Catholic University, to host Korean-born, American-raised and educated filmmaker Tammy Chu who gave a presentation accompanying a rare Australian screening of her film *Resilience* which documents the reunion of an American Korean intercountry adoptee with his Korean mother and the rise of birth mother advocacy and support in Korea.

Proceedings commenced with a keynote address by Professor Peter Selman, a Visiting Fellow in the School of Geography, Politics and Sociology, Newcastle University. Selman is the leading authority on the demography of ICA and has published extensively on the topic, and provides advice to the Hague Special Commission on ICA which he attended in June 2010. In his presentation, 'The Global Decline of Intercountry Adoptions: what lies ahead?' Selman examined the latest trends in ICA worldwide. Trends in the number of children sent by states of origin were based on their returns to the Hague Special Commission or on estimates derived from country data provided by the receiving states. The analysis concentrated on the period from 2004 to 2009 when estimated annual global numbers declined from 45,000 to 29,000, fewer than those recorded in 1998. The presentation also looked at changes in the age – and other characteristics – of children sent. The paper concluded with a consideration of the implications of a continuing high 'demand' from childless couples in rich developed countries on the ICA market and the prediction of David Smolin that, unless truly reformed, ICA will eventually be abolished and labeled as a 'neo-colonial mistake.'

The first panel session of the workshop presented views on the rapidly changing nature of ICA from the Commonwealth and Victorian governments, and a presentation outlining the very fine line between the movement of children for adoption and their trafficking by the Chief Federal Magistrate, the Honourable John Pascoe. Kerri-Anne Smith from the Intercountry Adoption Branch of the Department of the Attorney-General gave a presentation entitled 'Yesterday, Today and Tomorrow: the Changing Context of Intercountry Adoption in Australia.' The presentation outlined the Commonwealth's experience and challenges in facing the changing nature of ICA in Australia. It charted the shift from the mandate given by the 2005 report of the House of Representatives Standing Committee on Family and Human Services (the Bishop Report) which signalled unequivocal

support for ICA and recommended the role of the Commonwealth be one of opening new programs, harmonising State and Territory practices, and reducing 'red tape'. The realities of ICA in 2010 call for a different approach, prompted by the changing characteristics of children in need of overseas adoption, longer waiting times, Hague compliancy, risk management, trafficking and other issues. In his presentation, 'When is illegal intercountry adoption tantamount to child trafficking?' John Pascoe argued that while the legal framework governing child trafficking and illegal ICA has been significantly bolstered, there are still uncertainties as to whether illegal ICA is considered trafficking. The paper questioned the effectiveness of existing instruments and regulations in curbing illegal ICA and child trafficking. The session concluded with a presentation by Katie Brown from Intercountry Adoption Victoria, in the Department of Human Services. Echoing the concerns and approach taken by Smith and Pascoe, Brown highlighted efforts being made in Victoria to educate prospective parents about the changing nature of ICA and the needs of children available for adoption.

The second panel presented both historical and critical legal perspectives on adoption, the adoptable child, the role of the professions in adoption and the rights of children. Shurlee Swain's presentation 'Shifting definitions of "the adoptable child" in the language of people seeking to adopt and to place children, 1860-1960' demonstrated that while discomfort about the notion of adoption as facilitating a market in children has been one of the major motivations for regulation and control, the signs of the marketplace lurk close to the surface of the history of adoption in Australia. This paper explored the nature of the market, beginning in the decades before legalisation but looking also for continuities in the ways in which in-country and later ICA have been debated in Australia. Drawing on an analysis of advertisements from major metropolitan dailies it will argue that benevolence always exists in an uneasy alliance with assumptions about the right to a child, creating a 'shopping list' of desired characteristics which the market was rarely able to satisfy.

In "'We find families for children, not children for families": Professionals and consumers at odds over intercountry adoption', Marian Quartly drew on research into historical social work archives to add an Australian perspective to the body of North American research (by E Wayne Carp, Ellen Herman and others) on the social work profession and its role in the development of adoption policy and practice. The historical moment elaborated in the paper was the mid 1970s when a parents' rights group challenged the professional authority of the social work profession in adoption. The paper examined the historical experience and the self-understandings of those around the table – as activists, as citizens, as professionals – for what this tells us about the long history of tensions between child-focused approaches to adoption and what may be termed adoption-focused approaches to children in need in the making of policy and practice in Australian ICA. Quartly then considered this historical evidence in the light of contemporary policy debates. Echoing Swain's argument, Quartly argued that the spectre of the market place – and the emerging conception of adoptive parents as 'consumers' – is a dimension which needs to be accounted for in the history of Australian adoption.

This panel concluded with a paper by Judy Cashmore (University of Sydney) 'Making space for the voice and views of the child in Family Law' in which key insights from practice and research in family law were brought to bear on adoption. As Cashmore argued, the best interests of the child, children's right to live with their families and to have continuing

contact with their family members as well as their right to express and have their views taken into account about matters that affect them are key planks of the UN Convention on the Rights of the Child. In making decisions about children's living arrangements and family composition - including adoption and foster placement and post-separation arrangements – children have experiences and perspectives that can inform the decision-making process and need to be taken into account, both in relation to their own circumstances and more generally in terms of adults' understanding of children's experiences and perspectives. This paper provided a valuable review of the relational and children's rights arguments as well as insights from the experiences and perspectives of adopted children and young people.

The theme of the third panel was 'Different ways of doing family' and sought to bring critical perspectives from gay and lesbian studies, and from work on foster care, to bear on considerations of ICA. In her paper, 'Lesbian and gay parented families: structure, outcomes for children and implications for adoption law and policy' Deborah Dempsey (Swinburne) discussed different types of lesbian- and gay-parented families, including those created through IVF, surrogacy and donor insemination. A brief overview of the now extensive literature indicating good developmental outcomes for children raised in same-sex couple families was provided; and the implications for adoption law and policy of lesbian- and gay-parented families formed through ART were considered in light of recent Australian and international research.

The first day of the workshop concluded with a screening of *Resilience* by Tammy Chu and a presentation by the film-maker on the film and the politics of ICA in Korea. Chu's film was a poignant and complex examination of the reunion and its aftermath of a Korean adoptee and his mother. Chu's *Resilience* is a character-driven documentary that takes a unique look at international adoption from the perspective of a Korean birth mother and her American son. A single story among the thousands of stories untold, the film follows the remarkable journey of Myungja as she reconnects with her son Brent (Sung-wook) after 30 years apart. Through their initial reunion on national television to subsequent meetings and departures, they attempt to build a relationship amidst family betrayal and the legacy of adoption.

On day two of the workshop, the first panel saw presentations by Patricia Fronck (Griffith) and Denise Cuthbert (Monash) which unsettled and questioned operating assumptions in ICA in Australia and overseas. Fronck's paper 'The future of intercountry adoption: A paradigm shift for this century?' argued that popular discourse that describes ICA has changed little since the 1950s. Increasingly evidence is mounting that necessitates a paradigm shift in how the international community conceptualises and responds to ICA. Outmoded thinking focuses solely on individual solutions for individual children. Approaches that address the structural issues that separate children from their families are called for. Currently the only overarching international framework for ICA is a legal one which is limited when applied to the prevention of family separation. Fronck argued for a shift in paradigm from the legalistic to the socioecological in managing ICA in the 21<sup>st</sup> century. This would entail, among other things, applying lessons learned from other arenas, such as health, to adoption; and would require a new international vision, strong policy leadership and intersectoral collaboration focussed on the needs and interests of children. Also questioning the adequacy and child-centredness of international legal frameworks for ICA, Denise Cuthbert's paper, 'Intercountry Adoption, the global care of children and the "failure of national politics"' began with the assessment of legal scholar Kerry O'Halloran that ICA

arises from a 'failure of national politics' in sending countries with which national politics in receiving countries are complicit. Using this as a starting point, this paper asked whether the transnational instrument of the Hague Convention (1993), which is commonly viewed as an instrument which protects the rights of children, is sufficient to overcome the deficiencies in national politics of which O'Halloran writes. It concluded that the Hague Convention, while commendable in many respects, is destined to reproduce the failures of national politics that give rise to ICA, rather than overcoming them and as a result is compromised in its protection of the rights of children. Hague is historically, philosophically and instrumentally complicit in the politics which endorse ICA and work to ensure its continuation. Its presumptive bias in favour of ICA leads to it departing significantly from the United Nations Convention on the Rights of the Child (1989). The Hague Convention works to ensure the rights of children *within* ICA, and not their rights *per se*. In conclusion, Cuthbert argued, the global care of children requires a more robust and child-focused international legal framework than that provided by Hague.

The second panel on day two foregrounded research into intercountry adoptive parents, with presentations by two early career researchers, Joshua Forkert (Adelaide) and Indigo Willing (Queensland), and the work of Damien W. Riggs (Flinders). In "'When the war is over": Legitimizing intercountry adoption in Australia, 1968-1975,' Forkert traced the rise of adoptive parents' activism from the mid-1970s in the closing stages of the Vietnam War, when concerned individuals and groups in Australia responded to the plight of the thousands of children orphaned or abandoned as a result of the conflict with offers of adoption. From the first cases in 1968, a movement led by prospective adoptive parents slowly developed, advocating adoption as a humanitarian and morally responsible act, culminating in the Australian Government's participation in the mass airlifts of children known as 'Operation Babylift' before the fall of Saigon in April 1975. This paper examined how this parent movement interacted with Government authorities, professional social workers and voluntary groups in Vietnam to legitimate intercountry adoption as a social practice in Australia during this period, and highlights how the nature of this interaction influenced the formation of official policy.

In her paper 'Transnational Adoptive Parents in Australia: Cosmopolitan Horizons, Cross-Border Ties and Issues of Race,' Willing examined the life experiences and outlooks on diversity that 'ordinary' Australian transnationally adoptive parents bring to the practice. It reported on research with 35 transnationally adoptive parents, exploring their memories and experiences in raising children whom they have adopted from various countries in Asia and also from Ethiopia. Willing finds that most parents in the study grapple with issues of racism and processes of White racial privilege that also shapes their lives and that of their families. There also appear to be a lack of formal avenues for these parents to gain mentoring from people who share the racial and ethnic background of adoptees. She concludes that in the future, more attention needs to be given to issues of race in adoption education and post-adoption support services, and for the inclusion of more people from diverse backgrounds in the development and delivery of such services.

In his presentation 'Other People's Children Too: Practice of Naming and Belonging in Adoptive and Foster Families' Damien W. Riggs (Flinders) contrasts the practice with respect to the naming of parents where foster parents are often discouraged from assuming the title of 'mum' or 'dad', the presumption being that this will confuse children or deny the ongoing role of birth parents with the practice in adoption where the opposite is true. Using this as a starting point, the paper explored these complex issues of the care of 'other people's children' by using examples from Australian intracountry foster care as a way to open up discussions about intercountry adoption and in particular the ethical responsibility that rests with birth parents to develop practices of kinship and belonging that both celebrate the 'birth' of the adoptive family, whilst honouring ongoing connections to birth families.

The final panel session of the workshop presented voices and perspectives often missing from public discussions of ICA in Australia: the adoptee voice, and the perspectives and insights from other episodes of child removal in our history. Early career researcher and independent scholar, Jessica Walton presented a paper, 'Re-visiting the "unknown": What it means to be adopted from the perspectives of Korean adoptees' on the adoptee experience. Intercountry adoption happens, she argued, along well-traveled international routes - as social workers bring children on planes to the waiting arms of adoptive parents in the receiving country and as adoptive parents fly to the birth country to return with their child. This familiar and pivotal moment in the adoption process has life-long implications for everyone involved. For adoptees, this moment in time is something that many work to make sense of through their own travels back to their birth country. Walton's paper examined what being adopted means as it is experienced from the perspectives of Korean adoptees. In particular, it addressed the on-going challenge of reclaiming what is often a largely 'unknown' part of their identity and making it into something meaningful. In her paper, 'Intercountry Adoption: Are we creating another stolen generation?' Evelyn Robinson (Member, National Intercountry Adoption Advisory Group, NICAAG) reflected on the development of ICA in Australia in the contexts of domestic child adoption and the removal of Indigenous children. She suggests that that ICA has proceeded without close scrutiny of the values which underpin the transfer of children through adoption from one family to another. Domestic adoption has been occurring in Australia for almost a hundred years. The vast majority of children adopted in Australia during this period were born to unmarried, unsupported mothers. Post adoption support services have existed in Australia for more than thirty years and remain an untapped source of information on the long term outcomes of adoption separation. Australia as a nation needs to heed the lessons of its own history more closely: we have experienced the removal of Aboriginal children and the British Child Migrants from their communities. The ethical viability of ICA, Robinson concluded, must be assessed with the benefit of the knowledge which we already have of past Australian experiences of adoption and family separation.

The workshop concluded with a Policy Forum chaired by Shurlee Swain which focused on the need for more Australian research into ICA and for more effective dissemination of the findings of this research. This session provoked animated discussion and a number of key themes which emerged over the two day workshop were revisited. These included the issue raised by Peter Selman in his opening keynote address and continued and elaborated in a number of other papers that contemporary ICA is changing very rapidly and no longer bears much resemblance to the version of ICA circulating in popular discourse. As discussants

observed a number of things flow from this: the need to reduce the gap between popular understandings of ICA and its contemporary reality; and the need to think of options other than adoption for the care of children – many older, many with special needs – who are now entering the adoption market. Many workshop participants were keen to explore the concept of intercountry fostering; while others saw poverty reduction and family preservation measures in sending countries as the best option for children. The need for a ‘new paradigm’ in which to think about and deliver policies in this area resonated through the forum – with Selman offering a note of caution, ICA may be some way from ideal but for many children in the present moment it provides their best chance of life and education.

Key resolutions from this forum were:

1. The need for better dissemination of information, including better briefing of the media, as to current and future trends in relation to ICA in order to bridge the gap between popular understandings as to the availability of children and current realities faced by those charged with administering the ICA program.
2. The need for public conversations, informed by research, focusing on the needs of children (as distinct from those of adults) in ICA.
3. Critical review of research and policy in ICA with respect to the on-going issues of identity for adoptees with the questions of whether adoption must come at such a high price for those adopted; whether more open arrangements, such as intercountry fostering or sponsorship, as well as more robust family preservation and poverty reduction strategies might be more appropriate responses to the needs of children globally.
4. The need for discussions at a policy level as to issues of citizenship for ICA children, particularly the possibility of dual citizenship.

Other outcomes of the workshop

A proposal for a special issue of the international journal *Social Policy and Society*, which will include selected papers from this workshop, is currently under consideration by the editorial board of that journal.

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