



Adoption

– a legal solution to a relationship problem?

**Submission
to the
Victorian Law Reform Commission
2016 Review of the Adoption Act**

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Overall beliefs

GPV/KCV¹ believes that adoption should be maintained as the last resort option for the care of children.

GPV/KCV notes that one of the purposes of the review of adoption is to ensure that the legislation governing it reflects community expectations and standards. In recent decades, since the legislation was first drafted, it has become clear to GPV/KCV that the community now understands the importance of maintaining biological connections for children and adults. Grandparents are, for example, undertaking much work to trace and document biological family histories as a means of building connections for young children in the family, thus building a strong sense of belonging. Further, grandparents are keenly aware of research that enhances understanding of the strong bonds between mothers and babies while *in utero*.²

GPV/KCV is committed to upholding childrens' rights and we see them as complimentary to, but not necessarily the same as childrens' best interests. Primary amongst the rights we uphold is the right of the child to participate in decisions that affect their own life. Therefore, GPV/KCV believes that the review should place high value on the UN Convention on the Rights of the Child in its deliberations. GPV/KCV believes that:

- Adoption should only be applied once parents have been supported to keep the child and after their rights and options have been explained to them by a specially trained person who is independent of the DHHS. This is the only way the community can be assured that the parents are not making decision under duress, even self imposed confusion and duress.
- Adoption should never be applied as a means of addressing the needs of couples or individuals who cannot conceive their own child or as a means of reducing the statistics related to children in out-of-home care or the obligation of society to support children in need.
- Adoption should never be applied if the extended family is willing and able to raise the child and in all cases the extended family of the child should have the right to prove their capacity and willingness to raise the child. The application of extended family to raise the child must be given priority consideration, even if the parent initially approves the adoption. In the cases where members of the biological family other than the parents want to raise the child, adoption should not proceed because parenting orders are sufficient to provide permanency and stability to the child's life. (Q26)³

Amongst the options available in Victoria, parenting orders must be the preferred option for the care of children by people other than their parents. These orders not only allow stability of placement, they also make reunification of the child with the parents possible. The GPV/KCV Longitudinal Study of Kinship Care demonstrates that successful reunifications can occur at least seven years after the children were put into the care of a biological relative other than the parents. (Q 26)

Victoria offers a range of parenting orders, other than adoption, that deliver security to children. GPV/KCV believes that in all cases these options have the capacity to address the best interests of the child, and guarantee observation of their human rights. These orders and all the ancillary services surrounding them should be applied in preference to adoption.

Once it has been established that adoption is the final option available for a child then it must be proven that it is applied in a way that protects the best interests of the child and enhances observations of the rights of the child.

The child's best interests and rights must be enshrined in the Adoption Act and written as a stand alone clause presented at the outset and in a way that makes clear that they are the not negotiable boundaries within which all decisions/actions are taken. Adoptive parents must agree to observation of the best interests and rights clause in the act before the adoption can proceed and they must be engaged in evaluation procedures at key stages of the adoption (Q2)

¹ Attachment: About Grandparents Victoria

² References: The Secret Life of the Unborn Child: How You Can Prepare Your Baby For a Happy, Healthy Life by Dr Thomas Verny & Bonding With Baby Before Birth by Carol Sorgen

³ Attachment: Extract form the KCV survey of Kinship carers 2016

Primary amongst the best interests of the child upheld by the Adoption Act must be the need and right of the child to have connections with their extended biological family, particularly its grandparents, and to be raised with their siblings. (Qs 4, 10, 11)

Particular beliefs

In particular and in response to the questions put in the Law Reform Commission discussion paper: *Review of the Adoption Act 1984* (August 2016), GPV/KCV believes that:

- The Adoption Act must articulate the best interests and rights of the child (Q2)
- Siblings have the right to be placed together (Q4)
- Fathers should be able to consent to adoption of their children (Q5 & 6)
- People other than the child's mother and father should participate in the decisions about adoption (Q8 & Q12)
- The court must put conditions on an adoption including conditions placed by biological parents (Q10 & 32)
- The Adoption Act must provide for contact between the adopted child and the extended biological family to be maintained after an adoption (Q11)
- Children must be empowered and enabled to consent to their own adoption (Q13)
- Children should have separate legal representation and the Adoption Act should provide guidance about the duties and role of a legal representative (Q14 & Q15)
- The Adoption Act should require provision of non-legal support for a child as an adjunct to legal representation (Q16)
- A range of people other than heterosexual couples should be allowed to adopt children (Q24)
- Parenting orders are a more appropriate option than adoption in many cases (Q26)
- The balance between privacy protection and access to information is out of alignment (Q35)
- A range of factors must be considered when releasing identifying information about a person (Q37)
- All provisions of the Adoption Act should be conveyed in a pamphlet written in plain language that can be understood by people from all walks of life and ethnic backgrounds (Q38)
- The adopted child's biological identity should be reflected on their birth certificate/s (Q39, Q40 & 41)
- A child's given name as it is registered on the original birth certificate must be maintained (Q42 & Q43)
- The Adoption Act must provide guidelines related to the exercise of power in decision making (Q45)
- The Adoption Act must require and set standards for post-adoption support and evaluation (Q48)
- Children should never be advertised as being available for adoption

The responses on the following pages are presented in the order that the questions were posed in the Victorian Law Reform Commission consultation paper. The order of presentation does not reflect any priority given by GPV/KCV.

However, the answer to question two relating to the need for a statement of child best interests and rights is viewed by GPV/KCV to be the core business of the Adoption Act. A statement of best interests and child rights should be presented front and centre in the Act.

All other responses provided are viewed by GPV/KCV to be interrelated, of equal importance, and non negotiable.

The comments made in this submission are designed to strengthen adoption but should not be taken as an overall endorsement of it.

The Adoption Act must articulate the best interests and rights of the child (Q2)

A statement of the child's best interests and rights must be presented as the core business of the adoption act and make clear that that all decisions and actions taken must be proven and documented to make clear how they enhance observation of the child's best interest and rights.

Application of the best interest rights principles will ensure consistency and fairness in decision making across all cases as well as keeping the focus on the needs of the child.

The best interests of the child as set down in section 60CC of *The Family Law Act (1975)* are supported by GPV/KCV in the context of family law matters. GPV/KCV believes that these best interest principles are a generally relevant framework for use in deciding the child's best interests in relation to adoption.

If adapted for use in considering the best interests of the child in adoption matters, those best interests might require that:

- Close consideration be given to:
 - The views of the child, even from an early age;
 - The benefit of the child having a meaningful relationship with both their biological and adoptive parents;
 - The need to protect children from physical or psychological harm, including neglect and being exposed family violence;
 - The need of the child to maintain close relationships with siblings.
- Consideration be given to the importance of key biological relationships:
 - The kind of relationships that children have with other members of their biological family including siblings, grandparents and more distant relatives. The possible effect on the child's social, emotional and intellectual welfare of separation from or denial of access to these people must be debated.
 - The rights of the child to maintain a connection with their biological heritage and family /community culture, and the effects on their self identity if denied access to this.
- Further consideration be given to:
 - The likely effect of any change of locality where the child is living and changed access to activities and interests important to the child;
 - The attitude of the biological family and adoptive family to child rearing and child rights.
- Evidence required to be considered should include:
 - Any history of neglect or family violence;
 - The demonstrated nature of the child's relationship with the biological family and other persons significant in their life prior to adoption;
 - The extent to which the child's biological family has been provided with and taken the opportunity to spend time with and/or communicate with the child, and has taken an active role in making decisions about issues in relation to the child;
 - The demonstrated skills, attitudes and knowledge of the biological and adoptive parents to provide for the emotional, physical and intellectual needs of the child;
 - The likely effect on the child of any changes in the child's circumstances including separation from family and friends, changing schools and changed access to activities and interests important to the child.

All matters detailed above must be considered and responses documented. However, primary consideration must be given to:

- The views of the child, even from an early age;
- The benefit of the child having a meaningful relationship with both their biological and adoptive families;
- The need to protect children from physical/psychological harm, including neglect and exposure to family violence;
- The need of the child to maintain close relationships with siblings.

Siblings have the right to be placed together (Q4)

The adoption act should include a requirement to place siblings for adoption in the same family. In circumstances where other family relationships are being strained or severed, it is of vital importance that siblings be kept together. If an adoptive family is unwilling or unable to keep a group of siblings together, that adoption should not proceed, and a family who can provide for all of the siblings together should be found.

Fathers should be able to consent to adoption of their children (Q5 & Q6)

There should be an obligation to take steps to identify and contact the father to obtain his consent to an adoption.

The only circumstances where no attempts to contact the father should be required are if the father has a proven history of violence that would constitute a threat to the child's safety, or when the child has been conceived as a result of sexual assault of the mother.

In other circumstances the father or his extended family may wish to care for the child and should be notified of the impending adoption and given the opportunity to qualify as the child's parents. It is not in the best interests of the child to be placed with an adoptive family before all biological avenues are explored, nor is it in their best interests to discover years after the adoption that a biological relative would have been prepared to raise them if they had been given the opportunity.

Steps to be taken to contact the father should include placing an advertisement in the legal section of local newspapers, sending requests in writing to the father's last known address, and the use of social media.

People other than the child's mother and father should participate in decisions about adoption (Q8 & Q12)

Firstly, there are the grandparents and other biological family members whose views should be considered and have greater weight in decision making. Grandparents have the best interests of the child at heart and will, in most cases, have intimate knowledge that can help the courts better determine what is in the best interests of the child. The same can be said for other members of the extended family. Further, grandparents should have a right to know where and by whom their grandchildren are being raised and to be included in contact arrangements. The views of the child are also important and should not be ignored.

Further, there are people not biologically connected to the child but with whom the child has developed close bonds. The views of these people should also be taken into consideration. These people who are significant in the child's lives may have important information that can help determine what is in the child's best interests.

In cases where the parent/s are not fit to give consent to adoption due to reasons such as mental incapacity or substance abuse, the child's extended family should be contacted for consent. GPV has had several reports of cases where the courts have dispensed with the consent of parents, but have failed to inform extended family members. In these cases, grandparents have not learned that their grandchildren were placed for adoption until after the fact, which has caused them great distress.

Unless there are compelling reasons why it would not be in the best interests of the child, the extended family should be given the opportunity to raise the child.

The court must put conditions on an adoption, including conditions placed by biological parents (Q10 & Q32)

Circumstances that would warrant such action are:

- when it is in the best interests of the child to have contact with the parent and or with relatives of that parent
- when the adoptive parents and the birth parent have not agreed about contact or exchanging information about the child
- where the culture of the biological family needs to be safeguarded. This would include matters such as religion and cultural matters related to ethnicity, including values and language of the biological family, whether it be Aboriginal/Torres Straight Islander or any other ethnicity.

It is crucial that birth parents should be able to express wishes about the religion, race and ethnic background of adoptive parents and that conditions placed on adoption reflect such strongly held and substantiated views. In order to maintain links with their cultural identity, children should not be placed for adoption with families whose personal philosophies contrast too strongly with those of their biological family.

The Adoption Act must provide for contact between the adopted child and the extended biological family to be maintained after an adoption (Q11)

This should include contact arrangements with parents and other members of the extended biological family, with minimum requirements for the numbers and nature of contacts to be set by the courts. Contact plans should always include the option for face to face contacts.

Attachment: A letter from an adult who was adopted.

Children must be empowered and enabled to consent to their own adoption (Q13)

Children under 12 may also have the capacity to understand and consent to being adopted. According to research from the Australian Law Reform Commission:

Although the evidence suggests that decision-making abilities are linked to age, the evidence also suggests that it is not possible to identify an age above which all children are competent to make decisions and below which all children are not competent.

An individual's capacity to make a decision cannot be determined by age alone. It also depends on: the maturity of the individual; his or her social development, including his or her relational style with authority and cultural and religious background; and his or her sense of self. Importantly, an individual's capacity to make a decision also depends on the particular decision that needs to be made, its complexity and the gravity of the consequences. This makes an adolescent's maturity of judgment for making a decision highly situation-specific.

Children have the ability to comprehend difficult concepts that are important for making decisions when the concepts are presented to them in ways that are 'developmentally appropriate'.

Further information :

<http://www.alrc.gov.au/publications/68.%20Decision%20Making%20by%20and%20for%20Individuals%20Under%20the%20Age%20of%2018/research-capacity>

Children should have separate legal representation and the Adoption Act should provide guidance about the duties and role of a legal representative (Q14 & Q15)

Such guidance should require the lawyer to represent the views of the child. These views then can be taken into consideration alongside the views of the family, bureaucrats, guidance officers etc. who will all be speaking about the child from their perspective. It is imperative that at least one person in the proceedings be required to speak the child's views.

Attachment: "Children's Participation Rights During Child Protection Proceedings: Recognition, Legal Representation, and the Redistribution of Care in Victoria's Children's Court" by Briony Horsfall

The Adoption Act should require provision of non-legal support for a child as an adjunct to legal representation (Q16)

The child should have access to a person who can answer all their questions about the adoption process, but who is independent of both the biological and adoptive families and of child protection or adoption agencies. This person should be able to explain things in a way that is appropriate to the developmental stage and capacities of the child. This person should also be able to assist the child to clarify and express their views to their lawyer and other decision makers.

The courts could employ *guardians ad litem* with the trust and authority of the courts to speak with families independent of child protection or adoption services and determine the families' aspirations.

A range of people other than heterosexual couples should be allowed to adopt children (Q24)

GPV/KCV has not encountered any objection to single people and/or same sex couples being able to adopt children. Some grandparents are able to report positive instances of single and same sex couples raising happy, well-adjusted children.

Parenting orders are a more appropriate option than adoption in many cases (Q26)

When children are raised by members of their immediate family, a parenting order should be made rather than an adoption. A parenting order can provide as much stability for a child as an adoption, without disrupting the natural biological relationships between family members. For example, a grandmother adopting her grandchild legally becomes the mother of that child. This can cause all kinds of disruptions, not only to the relationship between grandparent and grandchild, but also to the relationships between those two and other members of the extended family, such as the child's parent, aunts and uncles who are now legally his brothers and sisters.

Children should be able to maintain contact with all members of their biological family, unless there is a demonstrated risk to the child's personal safety. Allowing, for example, a step-father to adopt a child and thereby supersede the rights of the biological father, creates a risk that the child may lose contact with their biological father and his extended family.

Amongst the options available in Victoria, parenting orders must be the preferred option for the care of children by people other than their parents. These orders not only allow stability of placement, they also make reunification of the child with the parents possible. The GPV/KCV Longitudinal Study of Kinship Care demonstrates that successful reunifications can occur at least seven years after the children were put into the care of a biological relative other than the parents.

In the GPV/KCV Longitudinal Study of Kinship Care 2011-2021, it has already become clear that it is possible for children to be reunified with their parents at quite late stages of the kinship arrangement. To date, 24 of the original 177 children in the study have been reconciled with their parents.

- 7 children returned to parents after 1 or 2 years
- 14 children returned after between 3 and 10 years
- 3 children returned after more than 10 years

The current limitations to rights to adoption information are designed to protect the best interests of the child. (Q35)

However, these limitations can cause heartache to biological relatives who have not been consulted during the adoption process. It is crucial that all efforts be made to inform grandparents and other biological relatives of the intended adoption before court proceedings are finalised, and that appropriate provisions for contact between biological and adoptive families be made at this time.

The balance between privacy protection and access to information is out of alignment (Q35)

The current rules regarding access to adoption information disadvantage extended family members, such as grandparents, uncles and aunts, who are stakeholders in the welfare of the children, but can get no information as to their current whereabouts, or even an assurance that the children are well and happy.

A range of factors must be considered when releasing identifying information about a person (Q37)

Factors that should be taken into account in deciding to release identifying information about a person include:

- The close connection to the child of the person seeking the information, for example parents, grandparents and other close relatives.
- The safety of the child

These factors need to be balanced against each other. For example, a child's biological parent should not be given information about the child's whereabouts if they have a history of violent behaviour and could compromise the child's safety, but a grandparent who wishes only to know that the child is safe and happy could be given some information.

All provisions of the Adoption Act should be conveyed in a pamphlet written in plain language that can be understood by people from all walks of life and ethnic backgrounds (Q38)

This pamphlet should address all issues relating to adoption, including;

- eligibility to adopt,
- the steps in the assessment process,
- the legal processes and any follow-up procedures.
- the requirements applicants must satisfy for approval

The adopted child's biological identity should be reflected on their birth certificate/s (Q39, Q40 & 41)

There are two ways this could be done – through the issuing of:

- one integrated birth certificate that lists details of both the child's birth parents and their adoptive parents on the one certificate
- two separate certificates, one for the child's biological birth details and one for the child's adoptive parenting details.

Whichever option is issued the certificate should still retain its status as a legal form of identification.

GPV/KCV is aware that the introduction of changed birth certificate arrangements would require an amendment to the Births, Deaths and Marriages Registration Act 2006, but believes that this should occur.

GPV/KCV also recognises that there are pros and cons for each approach, but believes that it is important to record the truth of birth details and make them available to children who are adopted.

A child's given name as it is registered on the original birth certificate must be maintained (Q42 & Q43)

Changing a child's given names is not consistent with the best interest of the child. A child's name is one of the first words they learn to recognise, and even at a young age changing the child's name can be confusing for them.

Further, the older a child gets, the more he or she learns to associate their own name with their sense of identity. To change a child's given names because they have been adopted by a new family can cause unnecessary confusion and loss of connection with their biological identity.

GPV considers that the only circumstances in which a child's given names could be changed are if the child is new-born, and has not yet had a birth certificate registered.

The Adoption Act must provide guidelines related to the exercise of power in decision making (Q45)

The Adoption Act should include principles that allow for greater participation of the child's extended biological family in the decision making process leading up to an adoption.

The Adoption Act must require and set standards for post-adoption support and evaluation (Q48)

Families should be regularly evaluated to ensure that the guiding principles regarding the best interests of the child are being upheld, and that the child is safe, well, and happy.

Such evaluations should include discussions with all the key stakeholders in the adoption, but most particularly with the child himself.

Children should never be advertised as being available for adoption

We note that in the 1964 Adoption of Children Act, it was made illegal to advertise a child for adoption in Victoria. However, GPV/KCV members were distressed to see the practice remaining in NSW, where Barnardos is advertising children who are available for adoption on their website.

Attachment: A call for an Australia wide ban on advertising children for adoption

Attachment: An article describing adoption practices in the USA

Suggested additional reading to accompany this submission:

- ***Adoption Deception, Penny Mackieson 2015***
- ***Post Adoption Experiences, Australian Institute of Family Studies
Research Report #21, 2012***
- ***The KCV Kinship Care Longitudinal Study
2011 – 2021 The Sixth Report - 2016***

About Grandparents Victoria

Grandparents Victoria was founded in 2001 as a state - wide non-for profit organisation of grandparents who believe that grandparents have a role to play in supporting families, particularly children. GPV believes that:

- *Grandparents have an important role within their families, their communities and as global citizens.*
- *The needs of families are complex and collective action by grandparents to support families is required.*

GPV understands that grandparents are a valuable resource with wide ranging skills and knowledge. They play a role in voicing opinion and reminding decision makers of the importance of investing in society's future

GPV bases its work on the wisdom and experiences of grandparents from all walks of life and:

- *Works together with other organisations*
- *Collects ideas and information about what works well*
- *Communicates its views to a range of people*

Kinship Carers Victoria (KCV) was formed by GPV in 2010 to:

- Have kinship carers in Victoria supported in their role according to their needs and the needs of the children they care for
- Identify, promote and represent the views of kinship carers in decision-making processes
- Inform and train carers to enable them to better perform their role as carers
- Advocate the needs of kinship carers with decision makers
- Promote and assist in the delivery of programs designed to support kinship carers.



Regional support groups and support group facilitators' forum

Grandparents who attend local support groups are mostly grandparents raising their grandchildren, but also included are groups for grandparents denied access to their grandchildren and other grandparents who want to shape a safe and happy future for all children

Individual grandparents

Grandparents from all walks of life and across the state who want to shape a better future for all children in Australia.

What do kinship carers say about adoption?

In 2010 KCV established a longitudinal study into the lives of 113 kinship carer families. Each year the carers share news about their lives and the lives of the children/young people for whom they care.

Adoption outside the family (extract form the 2016 survey report

The 47 kinship carer families who are still caring in 2016 were asked how they feel about children being placed in adoption. Given their experiences the carers had well informed views. The strongly held reservations about adoption by carers who have struggled to raise difficult children must be given weight. If these people, despite their many struggles and temptations to give up, do not think that adoption is a good option for children, then surely it is not.⁴

Forty-six carers (one carer did not answer this question) reported that they believed children in general should always be placed with members of their extended biological family first. Nineteen carers responded that they were very strongly against adopting children away from their extended biological family. They felt it would always be possible, given enough effort, to find extended family members willing and able to raise the family children.⁵

Forty-two of the carers were adamant that they would not have preferred to have the children currently in their care adopted by another family. One carer became distressed when asked these questions, as she feared the prospect of the children in her care being anywhere other than in her current care.⁶

All agreed that uppermost in any decisions about the placement of a child should be the child's best interests, and concerns over the potential loss of identity if a child is taken away from its biological family were paramount. Thirteen carers reported that they could vary their opposition to adoption dependent on the best interests of the child/ren.

The carers were certain that the reasons for not placing children within their extended family must be compelling ones. The only reasons for doing so posed by the carers were that biological family members were not willing or able to rear the children. Ten carers reported that they would accept adoption away from the family for this reason only. Some carers reported that they would accept adoption if no family members passed background checks, irrespective of whether they wanted to rear the children or not.

The carers thought that if adoption was to be considered a range of requirements that needed to be fulfilled:

- *adoption should be only considered for babies and not for older children*
- *background checks must be conducted on the prospective adoptive family*
- *the adoptive family must willing and able to accommodate the child's special needs*
- *the adoptive family must be more likely to offer stability than the biological family.*

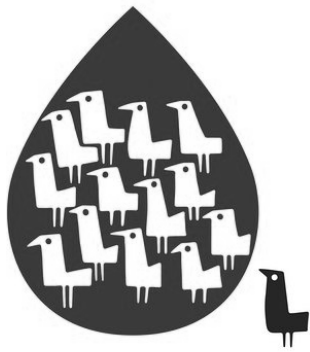
⁴ *At a meeting of the GPV/KCV Board on April 7th 2016 a discussion of adoption revealed that 4 of the 7 members present had first hand experiences as adoptees and as adopters. All reported negative experiences of adoption and do not believe that it is the only option that holds out the promise of stability of placement. They also believe that it is not necessarily in the best interests of children to rob them of their biological identity.*

⁵ *GPV/KCV is supporting work in Victoria to have the family finding procedures employed widely in the USA introduced in Victoria. The procedures enable the finding of members of the extended family and enable children to be successfully placed with aunts, uncles cousins and the like. GPV/KCV has accepted an invitation from Berry Street to be a critical friend to the trial project looking at how family finding might work in the Victorian context. Melbourne University has agreed to evaluate the outcomes of the trial.*

⁶ *In July 2016 the USA government passed the Family First Prevention Services Act 2016, which strengthens families by providing evidence-based prevention services to keep children out of foster care and reduce inappropriate group home placements. It ensures that more foster children are placed with families and sets standards for the improvement of non family based care.*

What I'm really thinking: the adult adoptee

The Guardian – August 2016



I'm envious of your relationship with your family, your certainty that they will always be there. It doesn't matter how often you argue. It doesn't matter if you see them once a week or once a year. They will be in your life for as long as you want them. And you know that.

I hate the smugness of family. The mindless celebrations. The unquestioned loyalty of shared blood, belonging to a tribe. I hate the Facebook posts. From the moment my adopted mother told me my "real mummy" had not been able to keep me, family ceased to be a certainty. I looked different from my adopted parents. I did not share their talents or traits. I felt like an outsider.

I'm envious that you can be yourself and your family will accept you. I worked so hard at family, striving to be who I thought they wanted, with no guarantee of success. The more I struggled, the less secure I felt. I sensed their disappointment. Our bond is contractual, not absolute.

I hate seeing you take your family for granted. Having the confidence of knowing unconditional love. Of not fearing it will disappear if you do not take care of it. I grew up knowing however much my mother loved me, she still felt able to abandon me.

Being restored to your blood family is every adoptee's great romance, but after the fairytale of finding mine, growing closer was a painful process. They told me my mother had never been the same after she gave me up, and it felt like an accusation. They never forgave me for escaping the pain I'd caused.

You remind me of what I am missing and what I will never have. No blood ties me to this world at all.

Illustration: Lo Cole/the Guardian

**Children's Participation Rights during Child Protection Proceedings:
Recognition, Legal Representation,
and the Redistribution of Care in Victoria's Children's Court**

**by Briony Horsfall BSocSc (Hons), PhD
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Legal representation, particularly when children have the direct model, is shown to satisfy children's participation rights to a strong extent and children's perspectives about their care further illustrate this. Recognition ethics, whereby lawyers respect children as participants and use their skills to scaffold participation, emerge as the defining feature of relationships between lawyers and children. Lawyers are also found to implement representation in ways that can support parity of participation for children in decision-making processes occurring outside and inside the courtroom. The quality of recognition contained in magistrates' judgments varies considerably according to the age of a child and whether the child had direct representation. Procedural and forensic aspects of recognition in magistrates' judgments are evident when responding to children's views. These findings provide evidence for a relationship between participation and children's care and safety when determining their best interests.

However, institutional governance structures of the child protection system and the conduct of adults can impede children's participation rights. There are inadequate legislated provisions for participation rights and the fragmented structure of the child protection system misframes representation when the redistribution of care becomes more intrusive. In light of the findings, changes to the Victorian child protection system since 2013 substantially reduce children's participation with legal representation and diminish oversight of child protection intervention and safety in their lives.



grandparents
VICTORIA



To all federal politicians

Dear

Re: A call for an Australia wide ban on advertising children for adoption

It has recently come to the attention of Grandparents Australia that Barnardos (NSW) is employing aggressive procedures to have children adopted in NSW and that they include advertising children on its website (see articles in The Grandparent newsletter attached).

This practice is unacceptable to us: we believe it is unnecessary, demeaning, in contravention of the rights of the child. These reasons alone should be enough to prompt swift government action to ensure that in no state of Australia and under no circumstances can children be advertised for this or any other purpose.

Barnardos might argue that the advertisement is acceptable because the children in the photographs are models and not real children being offered for adoption. However, this defense does not placate us and we continue to believe it is morally repugnant to advertise children. Rather, the Barnardos line of defense leads us to make a further charge of false advertising.

Also, enclosed is an edition of *The Grandparent* newsletter that demonstrates that adoption is often detrimental to children and just how bad practices supporting it can be. Although this newsletter relates to practices in the USA we believe that Barnardos' practices are little, if any, better.

Grandparents Australia calls on you to examine your sense of right and wrong and to put yourself in the place of the children being advertised. We plead with you to "outlaw" such practices in Australia and anywhere else where they are taken up in the name of Australia.

Yours sincerely,

Anne L McLeish OAM
Director

U.S. Govt. Office of Accountability report on adoption rehoming

09/21/2015 08:57 am ET http://www.huffingtonpost.com/mirah-riben/us-goa-report-on-adoption_b_8156396.html - #

Mirah Riben - Researching, writing & speaking about the adoption industry since 1979.

Author of THE STORK MARKET: America's Multi-Billion Dollar Unregulated Adoption Industry

Two years after Reuters' five-part report on the rehoming of adopted children in the U.S., the U.S. Government Office of Accountability (GOA) has released a report entitled "Steps Have Been Taken to Address Unregulated Custody Transfers of Adopted Children" Published: Sep 16, 2015.

"GAO examined:

- (1) the reasons adoptive families consider unregulated child custody transfers, and services that exist to support these families before they take such an action;
- (2) what is known about the prevalence of these transfers; and
- (3) actions selected states and federal agencies have taken to address such transfers. GAO reviewed relevant federal laws, regulations, and policies and selected state laws and proposed legislation.

GAO also interviewed officials from federal agencies, 19 child welfare and adoption organizations, 15 adoption agencies, and 7 states selected primarily because of legislative activity on unregulated transfers. GAO also searched online activity on selected social media sites to find illustrative examples of families who may be considering unregulated transfers."

The report, which was made with "technical comments" from The Departments of Health and Human Services, Homeland Security, and State and notes that "The Department of Justice had no comments," recognizes the fact that some adoptive families rehome, or give away their children.

"...because of a crisis within the adoptive family and difficulties accessing support services, according to officials GAO interviewed from selected states, child welfare and adoption organizations, and adoption agencies. Children adopted internationally or from foster care may need special care or counseling because of a history of institutionalization and trauma. Some

parents, particularly those who adopted internationally, may not be prepared to deal with their adopted child's complex needs."

The report further recognizes that internationally adopted children and those adopted from foster care are at most risk because of trauma they suffered that their adopters are ill-equipped to deal with. The report notes that those adopting internationally receive only 10 hours of training as compared to 27 hours of training provided approximately half of the states for foster adoptions. Also noted is that adoptive parents report insufficient post-adoption services, particularly residential care which can cost tens of thousands of dollars a year.

The report admits that:

"Little is known about the prevalence of unregulated transfers. Because they happen without any oversight, these transfers are difficult to track and no federal agency keeps statistics on their occurrence."

The GOA observed 23 instances in a 15-month period of adoptive parents seeking new homes for their children using online social media. With no explanation of why these incidents were not investigated, the report states:

"Because GAO did not investigate these posts and because discussions between online participants can be continued privately, GAO was unable to determine whether these participants intended to pursue a legal placement or an unregulated transfer, or whether such a transfer actually took place."

As I previously reported, states have begun making rehoming illegal. Seven states have:

"...enacted legislation and 3 made changes to state child welfare programs as of July 2015. The most common approaches were criminalizing unregulated transfers or actions that may lead to

these transfers, and restricting the advertisement of children for placement. In addition, activity in several states involved improving post-adoption services, which many officials said was a key need for families who resort to unregulated transfers.”

As for post adoption services the report found they “can be difficult and time-consuming, and funding for these services is limited.”

The report concludes:

“At the federal level, several agencies established an interagency working group on unregulated transfers in October 2013. Officials from the Department of State said they plan to revise international pre-adoption training requirements that may include an increased number of minimum hours. HHS issued a memorandum in May 2014 encouraging states to promote post-adoption services and to review their policies to address unregulated transfers.”

On the one hand, it is encouraging to see any federal level oversight of adoption, as all interstate and international adoptions *should* be

under the auspices of a federally dedicated adoption watchdog agency, which we still fail to have in this country.

On the other hand, one wonders the cost to taxpayers to have these bean-counters confirm what we knew two years ago and decide that they MAY increase the number of hours of training for pre-adoptive parents and *encourage* states to do more about this very serious threat to the safety and well-being of adopted children. The failure of our government to regulate private entrepreneurs who transfer of custody of children for personal gain, is deplorable. L. Ann Babb, in her book, *Ethics in American Adoption*, states that nail salons were better regulated than adoption agencies. Adam Pertman, while executive director of The Donaldson Adoption Institute, several times in various interviews called American adoption the “Wild West” and stated that anyone can “hang a shingle” and facilitate adoptions.