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‘society moves to make its own
solutions ...’: re-thinking the
relationship between intercountry
and domestic adoption in Australia

Denise Cuthbert and Ceridwen Spark

Regrettably, society moves to make its own solutions in these very complex and emotional matters. We hear of facilities being made available to adopt children in other countries to *avoid this open adoption, which people do not find attractive*. We must think about that and consider the implications. (Emphasis added)

The Hon D F Moppett, Parliament of New South Wales, 2000
How can adoption be *so bad* for Australian children, and *so good* for children born overseas?

Senior child-placement officer, Australian state government, 2008

other people's children

Introduction

In 2005, the report *Overseas Adoption in Australia* of the inquiry conducted by the House of Representatives Standing Committee on Family and Human Services (HRSCFHS) into intercountry adoption (ICA) stated that adoption in Australia had become the 'poor relation' of child placement policy (p. 4). A year earlier, Rosemary Pringle announced that in Australia adoption had lost credibility as a social policy option (p. 225). These views appear to be confirmed by the annual data compiled by the Australian Institute of Health and Welfare (AIHW 2008) which show the dwindling numbers of domestic adoptions in Australia since the peak years of the early 1970s. The data also shows precisely that it is adoption *as a social policy option* within Australia and not adoption *per se* which is suffering from credibility problems. The distinction is an important one. The data which documents the decline of domestic adoption in Australia from the mid-1970s also documents the rise of ICA over the same period.

The statistics underlie the divergent histories of domestic adoption and ICA in Australia since the 1970s. In this chapter we examine elements of these divergent histories. In particular, we interrogate the idea that ICA has risen solely in response to a drop in the number of babies available for adoption locally. We suggest that the relationship between rising ICA and declining local adoption is more complex than is commonly held to be the case. This story, we argue, needs to be re-told with reference to the changes to domestic adoption in the period since the late 1970s—and the impact of these changes on the demand for domestic adoption. We then ask—how might we re-imagine adoption in Australia such that Australian families looking for children are better aligned with the many Australian children in need of family-based permanent care? Noting that in its earliest days, ICA was considered an extraordinary form of adoption involving children with special needs, we propose that there is some merit in re-framing ICA as special needs adoption. This view has been obscured in recent years as ICA has become

‘society moves to make its own solutions ...’

normalised as a route to family formation for many childless couples and individuals. We argue that re-framing ICA as special needs adoption might form the basis for socially responsible policy and serve as a reminder that adoption—whether of domestic or international children—is a unique way of making families which frequently entails complexities and challenges.

The divergent histories and dynamics of domestic adoption and ICA
The accepted account of the divergent histories of domestic adoption and ICA in Australia is that from the 1970s prospective parents increasingly turned to ICA because of the limited availability of babies for domestic adoption. This account creates the impression that, on the basis of supply alone, ICA in Australia escalated because domestic adoption could no longer meet ‘market’ demand. While there is truth in this narrative, it obscures the cultural politics surrounding adoption which resulted in the transformation of domestic adoption, through both law reform and marked shifts in adoption practice. Obscuring this history of the transformation of local adoption has contributed to a situation in which ICA is no longer understood primarily as an extraordinary response to geo-political and other disasters, but rather as a normalised route to family formation, which meets the needs of childless couples and individuals.

The significant coincidence between the declining numbers of domestic adoptions (marked from 1973 [AIHW 2008]) and the rising numbers of ICAs (steadily increasing since 1975 [AIHW 2008]) is often noted. Less commonly noted however, is that these two developments are confluent with political agitation on the issue of past domestic adoption practices and reform of adoption law affecting both past adoptions and the terms on which future domestic adoptions could be pursued. This political agitation erupted into prominence with the first national adoption conference in 1976 (Marshall and McDonald 2001; Picton 1976), which was the culmination of much concerted activism. The adoption reform movement resulted

other people's children

in the transformation of domestic adoption in Australia in the period from 1983 to 1994. During this time, most state and territory legislatures progressively reformed adoption legislation, removed provisions for secret and sealed adoptions, and put in place avenues for adoptees and birth parents to access previously sealed documents relating to birth and adoption (Marshall and McDonald 2001, pp. 42–5).

This political agitation on the part of birth parents and others, including social workers, was accompanied by, and compounded, a profound cultural, social and political shift from the unequivocal endorsement of adoption as an unproblematic social good (Marshall and McDonald 2001) to a more critical assessment. Numerous scholars (Marshall and McDonald 2001; Pringle 2004; Cuthbert 2000, 2001; Murphy *et al.* 2009) have documented the shifting social evaluation of adoption in Australia since the 1970s. As one adoptive mother observed in the late 1990s, ‘adoption is now a dirty word but it was different [in the 1960s]’ (Cuthbert 2000, p. 35). The decline in the reputation of local adoption in Australia perhaps reached its lowest point with the tabling of the New South Wales Legislative Council’s 2000 report into past adoption practices. This report both documented and confirmed the claims of many mothers whose children had been taken from them and adopted in the decades from the 1950s to the mid-1970s, that past practices were inhumane, and at times, unlawful (New South Wales Legislative Council 2000).

As New South Wales parliamentarian, D F Moppett argued in 2000, the emergence of intercountry and the decline of domestic adoption have implications for governments and the community. One implication is that state and territory governments face the ongoing challenges and expense of providing various forms of out-of-home care to increasing numbers of children for whom permanent placements are rare (HRSCFHS 2005, p. 93). Adoption in this context exists as one social policy option for the care and placement of children. To this end, the state seeks to

‘society moves to make its own solutions ...’

recruit families willing and suitable to take on the care of children whose own families are unable to care for them.

At the same time, these same state and territory governments face demands from increasing numbers of prospective parents seeking to adopt internationally and who look to government to provide this ‘service’ (Nader 2008). Domestic adoption in Australia appears to have lost appeal for parents in search of children partly because the children available for adoption tend to be older or have other special needs. Australians have, on the whole, been less willing to adopt children with special needs, including older children, than their counterparts in the United States and Britain. Further, as Pringle (2004) and others argue, domestic adoption labours under a shroud of guilt and apology due to past practices. Additionally, as we argue here, another factor needs to be added to the story of the decline in Australian domestic adoption relative to the rise in ICA: namely that for many adoptive families, ICA represents a more attractive mode of adoption than does reformed, domestic adoption.

The contradictory dynamics and differing appeal of the two kinds of adoption highlight the divergent interests within Australia of prospective adoptive parents, local children in need of permanent care, ‘parentless’ children overseas, and the often neglected interests of overseas birth families. Below, we consider these overseas families—frequently off-shore, out of sight and thus, potentially, out of mind.

Out of sight, out of mind

Insight into how ‘out of sight and out of mind’ overseas families inform the decision of some parents to favour ICA is provided in Jill Smolowe’s adoption memoir, *An Empty Lap: One Couple’s Journey to Parenthood* (1997):

We also agree that neither of us feels up to the emotional rigours of an open adoption [...] Our mutual preference is to keep the

other people's children

birth parents as distant as possible. We acknowledge that we want our love and our claim to be exclusive, unrivalled, unchallenged.

Given that need, we agree, an international adoption might be the most comfortable. It's an option that makes sense for us.
(pp. 141–2)

Because of their 'need' to make an 'exclusive, unrivalled, unchallenged' claim over a child, Smolowe and her husband opt for ICA as their preferred mode of adoption expressly because it keeps 'the birth parents as distant as possible.' Smolowe's words confirm the view of David Smolin that many adoptive parents are 'ambivalent about open adoption' and are 'lured into the international system by the comparative powerlessness and distance of foreign birth parents' (2004, p. 316). Smolowe writes that she and her husband were aware that their checklist of preferences represented a 'grab bag of choices [that] will incur certain risks' (p. 143), including the pay-off between their strong preference for the 'distant as possible' birth parents and lack of access to medical histories and other information. They were prepared to wear these risks to secure a child over whom they would have an 'exclusive' claim. Smolowe's narrative suggests that in the US context at least, the demand for ICA should not be understood simply as a response to the decline in suitable local children for adoption, but rather represents the *active* preference of some adopting families for a closed adoption.

Evidence presented by numbers of adoptive parents during the 2005 inquiry into ICA in Australia (HRSCFHS 2005) supports the view that for many Australian adoptive families, ICA is more attractive than local adoption for the same reasons. The views of many Australian adoptive parents who presented evidence to the committee echo Smolowe's sentiments on the subject:

The beauty of intercountry adoption is that, in most cases, while the records are there, as far as the child is concerned it really has only one set of parents to deal with. You have a much more

'society moves to make its own solutions ...'

natural situation. As a couple, you can bring them up in the way you believe is appropriate. You can deal with problems in the way you believe is appropriate. So, yes, if that is what you mean by finality, I think it is a very positive thing about intercountry adoption. (Commonwealth of Australia 2005a, p. 64)

There is a thing now called open adoption for local adoptions, so you have to take into consideration whether your family is able to cope with the intrusiveness that may or may not occur. (Commonwealth of Australia 2005a, p. 61)

A mode of more open adoption which may entail 'bringing not only your child but your child's family into your family' (Commonwealth of Australia 2005a, p. 61) is rejected by many and the long wait for a child born overseas, with some 'paper pregnancies' lasting upwards of five years, commences.

Notably D F Moppett's comment on the decline in domestic adoption, quoted at the outset of this chapter, does not touch the 'supply' side of the local adoption market, that is the numbers of children available for adoption. Rather, he addresses the 'demand' for ICA. Reformed open adoption involving Australian children is, in his view, the issue—'people do not find [it] attractive'. ICA arises, he contends, 'as society moves to make its own solutions' by seeking not only a source of children for adoption, but also a mode of adoption which suits its need to 'avoid this open [domestic] adoption'. Moppett's assessment and evidence given to the 2005 inquiry (HRSCHFS 2005) tend to support the view that to 'the extent that a tendency toward open adoption has empowered birth parents to a limited degree, this trend has very little impact on intercountry adoption. Indeed, some choose to adopt internationally to avoid any contact with birth parents' (Smolin 2007, p. 424).

Orphans in need of adoption or adoption in need of 'orphans'?

The discussion above shows how ICA has emerged as the most 'comfortable' form of adoption for parents who are unwilling

other people's children

to enter into more open forms of adoption and permanent care available locally. In this logic, the *most* abandoned child is frequently the most desirable child. In this way, the overseas child, whether an actual orphan or an *imagined orphan* represents the kind of child over whom adoptive parents may make the 'unrivalled' claim desired by Smolowe. In this mode of adoption, the adopted child and her adoptive family only deal with 'one set of parents'—the adoption is closed and final, and in this respect shares many features with pre-reform domestic adoption in Australia. That is, the kind of adoption that was once available in this country, but which Australian families must now look overseas to secure is seemingly becoming the 'solution' to prospective parents' difficulties with domestic adoption reform.

Many of the arguments in favour of smoothing the way for adoptive parents to access children with minimal delays are premised on assumption of many 'orphans' in other parts of the world in need of rescue by Australian families. This logic recurs throughout the *Overseas Adoption in Australia* report (HRSCFHS 2005) and is in evidence in many of the submissions received by pro-adoption groups and individuals to that inquiry. Seemingly outdated adoption narratives of the 'salvation' of children in need by worthy and deserving adoptive parents can be rehearsed, largely unchallenged by the counter-claims of birth families who are rendered inaudible either by virtue of their 'abandonment' of their children, or by geographical distance, poverty or relative powerlessness.

In this respect, some ICA discourses parallel and repeat what Ann Fessler (2006) describes as the central premise of 'unwanted babies' on which pro-adoption narratives in the US in the period immediately following the World War II were predicated:

Social acceptance [of adoption] was predicated on the idea that these babies were unwanted. This belief eliminated a potential moral dilemma, especially for adoptive families: most couples, no matter how much they wanted a child, would not want to be

'society moves to make its own solutions ...'

involved in taking a child away from a mother against her will. But given the secrecy and the social stigma of the time, adoptive parents were never exposed to the story of the pain and grief felt by so many of the mothers. (p. 183)

As Fessler notes, no matter how badly they might want a child, few people wish to be involved in taking a child away from a mother unwilling to relinquish this child. The emphasis on orphans and abandoned children in many of the discourses supporting ICA, including the *Overseas Adoption in Australia* report (HRSCFHS 2005), participates in this narrative by removing birth parents from the picture. Certainly, children here or overseas, who are genuinely orphaned or abandoned need some form of alternative permanent family-based care. Adoption-driven child placement discourses also *need* 'orphans' to drive their vision of a mode of family formation which is unequivocally 'good' for the child and adoptive parents. The success of these discourses relies on them being uncomplicated by thoughts of living members of a birth family, free of the vexed politics of past Australian domestic adoption and on the by-passing of more open forms of adoption currently available in Australia—designed in part to avoid the damage done by past practices. In the shaping of these discourses, suggestions such as those made by Australian mothers to the 2005 inquiry (HRSCHFS 2005) that present ICA as repeating the 'crimes' of domestic adoption in Australia's past, are dismissed summarily, as is evidenced by the treatment of witnesses putting this view to the committee in its public hearings. For example, on 17 October 2005, Meg Lewis, chairperson of the Association Representing Mothers Separated from their Children by Adoption (ARMS, South Australia), and colleagues attempted to put these points to the committee. Lewis is aware of the unpopularity of the ARMS position:

We are saying that the same thing is happening today and calling it intercountry adoption and thinking that it is no

other people's children

different is not true [...] We know that people do not like to hear what we have to say. They want us to go away, exactly as they wanted us to go away years ago. But we have every right to speak for ourselves and we have every right to speak for mothers from other countries. We intend to do that. (Commonwealth of Australia 2005c, pp. 86, 88)

Lewis received a hearing, of sorts, but was interrupted and contradicted several times by the chair and other members of the committee. Similar treatment was accorded Lily Arthur, who presented evidence to the committee in Sydney. Arthur pressed home the parallels between the treatment of birth mothers in Australia in past decades and several intercountry sending countries in the present (Commonwealth of Australia 2005d, pp. 42–3). Arthur endured several interruptions from the chair, each of these indicating the committee's desire to quarantine bad adoption practices in a regrettable past from which we must move on:

CHAIR—I think we all acknowledge that the practices that went on in that period were pretty horrendous and are fortunately gone. (Commonwealth of Australia 2005d, p. 42)

CHAIR—I think we have moved on since 1970, fortunately. (Commonwealth of Australia 2005d, p. 43)

The voices of Australian birth mothers at these hearings—raising concerns about the human rights of birth mothers in other countries—represented an unwelcome complication to the view of ICA as an 'unequivocal' good, a view which the committee appeared to have formulated.

As noted, narratives of child 'rescue' through adoption exist alongside continued ambivalence to the adoption of domestic children. The contradictory evaluation of the two forms of adoption is expressed in the riddle posed by a state government child placement officer (quoted at the beginning of this

‘society moves to make its own solutions ...’

chapter), which asks how adoption can be good for one group of children—those born overseas—while being bad for Australian children? One answer to this riddle may be that what is being spoken of is not whether or what kind of adoption is good or bad for children, but rather what kind of adoption best suits prospective parents. It is possible that ICA is viewed as being good for children (as distinct from local adoption which is apparently bad for children) because it is *good* for parents. And, this is in part because ICA offers a form of adoption uncomplicated by the sorts of considerations which have re-shaped domestic adoption in Australia since the late 1970s.

Are there politically progressive ways of re-envisioning adoption? We have outlined the ways in which popular understandings of the rise of ICA and the decline in domestic adoption obscure and distort elements of their complex history in Australia. This has several implications that we as a community need to consider. One implication which we take up here is the impact of the rise of ICA on Australian children in need of permanent care. Just as popular accounts of the rise of ICA tend to obscure the impact of reforms in domestic adoption in the same period, we argue that the rise of ICA in Australia has seen it progressively normalised as the preferred form of adoption for many couples and individuals in search of children to form a family. In this normalisation process, key features of the history of this form of adoption have also been obscured.

In this section, we would like to take up one of these—the understanding of ICA as special needs adoption—and use this as a way of considering some of the challenges we face in addressing the needs of children, both those born in Australia and those born overseas in need of permanent family-based care. We suggest that earlier understandings of ICA as, by definition, special needs adoption is a useful way for us as a community to re-think the relationship between ICA and domestic adoption. In particular, we highlight the ways in which reconceptualising ICA as ‘special needs’

other people's children

adoption usefully challenges the false binary between 'damaged' domestic children and their purportedly 'undamaged' counterparts overseas. Arguably, conceptualising all ICA as 'special needs' adoption would help to re-position adoption as being primarily about the needs of children as distinct from the desires of adults.

Indications are that into the future, the children that will be made available through a number of ICA sending countries will increasingly be older children, children in sibling groups, and children with a range of special needs (Selman 2006; Tan *et al.* 2007; Spark *et al.* 2008; Nader 2008). This has re-activated research attention on the special needs of children in ICA. In the early days of ICA in Australia, it was acknowledged that all ICAs needed to be treated as special needs adoptions (Institute of Social Welfare 1975). Over time and with the growing demand for ICA as a 'service' for couples and individuals, this understanding of ICA has slipped from view. The term 'special needs' has only recently been re-applied in relation to ICA generally in the international research literature and is rarely used in this context in Australia (Tan *et al.* 2007).

There are grounds for the view that ICA as a whole is best understood and managed as a form of special needs adoption (Steltzner 2003; Tan *et al.* 2007; Socialstyrelsen and MIA 2007). The characteristics of the overwhelming majority of children adopted into Australia from overseas align with key criteria, used in both the United States and the United Kingdom, for special needs classification in the context of domestic adoption. These characteristics are shown in the research literature to be risk factors for a range of health, developmental and educational challenges. The majority of intercountry adoptees entering Australia possess at least one of these characteristics, and frequently children adopted from overseas will possess more than one:

- age at adoption—commonly older than one year, and increasingly between two and four years (see AIHW 2008)

‘society moves to make its own solutions ...’

- racial/cultural background and language spoken/ understood being different from those of their adoptive parents
- the likelihood that they have spent most if not all of their lives prior to adoption in some ‘out of home care’ situation, either fostering or an institution (Families with Children from China–Australia 2005, p. 30)
- the likelihood that they experienced some degree of deprivation, whether material or emotional, prior to adoption

In the United States and the United Kingdom domestic adoption contexts, the presence of one or more of these special needs characteristics would qualify the child concerned to be considered and managed as a special needs placement (Rosenthal and Groze 1992, 1994; McRoy 1999). This classification would then determine the screening for suitability of adoptive parents and the mobilisation of adoption support and other services to address the special needs of the child and the adoptive family.

This is not to deny that many ICAs are successful, bringing great benefit to individual adopted children, and significant satisfaction and fulfilment to their adoptive families. It does, however, constitute recognition that better screening and education of adoptive parents and enhanced post-adoptive supports and services for intercountry adopted children and their families is contingent on full acknowledgement of their special needs status (Steltzner 2003). Within this reconceptualisation of ICA as *special needs adoption by definition*, we propose that scope be made for the identification of particular children who are by reason of their backgrounds, health or developmental needs, considered as being at ‘greater risk’ or with ‘more profound special needs’ than other intercountry children.

The evidence from the research literature as to the actual backgrounds and needs of the majority of intercountry adopted children supports the view that the definition, understanding

other people's children

and management of ICA as special needs adoption, will assist in the development of better policy and greater public awareness on the nature of ICA in Australia (Spark *et al.* 2008). This applies particularly to providing prospective adoptive parents with more realistic expectations of, and preparation for, the challenges and particular hardships for the child and the adoptive family that may entail on adoption. It may also assist a range of professionals better appreciate the challenges that some intercountry adoptees face in health, development and educational attainment (Meese 2005).

As discussed above, it appears that, for many prospective adoptive parents, ICA as presently framed presents a more attractive option than domestic adoption. A fuller appreciation of this form of adoption as special needs adoption, within which some children may possess greater needs than others, may shift perceptions and preferences for some prospective parents on this issue.

Conclusion—Looking to the future

Having considered elements of the divergent histories of adoption in Australia and their implications for the placement of children in need in Australia, we conclude with some observations based on our recent attendance at an information session run by the Victorian Intercountry Adoption Service (ICAS)—a division within the Victorian Department of Human Services. ICAS has recently changed the presentation it makes to prospective parents. This change is supported by the development of a revised Information Kit (ICAS 2008a). As adoption researchers, we were invited to attend the session in order to provide ICAS with feedback about the presentation's revised content and format.

Apart from the ICAS website (ICAS 2008), the information session is the earliest port of call for people interested in ICA. When we attended, the room was full of (presumably childless) couples, some of whom were moving toward the end of painful journeys of infertility. For many, ICA represents what they perceive as their last chance to make a family. There is palpable

‘society moves to make its own solutions ...’

disappointment when ICAS officers outline the realities—that there are more people waiting than children available and there is a lengthy, rigorous process of application, with much waiting and uncertain outcomes. Staff also addressed the subsequent difficulties entailed in raising a child from another country who, at the very least, would need support to come to terms with complex identity issues and lack of information about their origins, and who may confront other challenges in addition to these. Despite the sensitivity the workers showed in communicating these realities, the message is harsh and, given the reactions we observed, one which many in the room found emotionally difficult.

However, given the concerns outlined in this chapter, we have two main reasons for viewing the directions ICAS is taking positively. Firstly, the terms in which the information session was delivered by ICAS staff actively sought to break down the binary of ‘undamaged’ babies from overseas versus ‘damaged’ domestic children, and of ‘complicated’ local child placement versus ‘uncomplicated’ ICA. ICAS staff did this by making the point that even the youngest babies from overseas will *on some level and in varying degrees* always struggle with not knowing where they have come from and with the related gap between their emerging identity as the member of an Australian family and their unknown past elsewhere. In contrast, they suggested, domestic children in need of families *know where they come from*, and this appeared to confer a clearer sense of identity (McRoy 2008) despite the challenges entailed. Secondly, the ICAS staff made gentle, but quietly determined efforts to expand the attendees’ sense of other possible ways to make family (ICAS 2008a, p. 42). They did this by highlighting that there were children with ‘special needs’ overseas who needed care, Australian children in need of permanent care, and by inviting staff from Connections and Anglicare—two agencies handling such placements—to inform the group about adoption, permanent care and foster care, respectively.

other people's children

To gauge the receptiveness of those attending this session to this more open and inclusive approach, it would be necessary to conduct follow up surveys and interviews. Nevertheless, such efforts at re-framing ICA constitute what we see as a timely and socially responsible effort to present prospective parents with the range of children in need of families—in Australia and elsewhere. In so doing, the ICAS initiatives point to the possibility that the divergence between intercountry and domestic adoption in Australia may be in the process of being addressed at a practical level. In this way, adoption *and* permanent care may be understood primarily as ways to meet the needs of various children in search of families, as distinct from adoption being seen as a way to meet the private and particular needs of adults in search of certain kinds of children. This, we suggest, might be a more ethical and balanced way for the Australian community to ‘move to make its own solutions’ to the problems faced by many children in need of family-based care, whether they are born in Australia or overseas.

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other people's children

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