



COMMISSION FOR CHILDREN AND YOUNG PEOPLE

28 January 2016
CCYPD/16/49

Hon Senator George Brandis QC
Attorney-General
Attorney-General's Department
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Dear Attorney-General

Re: Equivalency of Standards for Expatriate Adoption

I am writing to inquire about the progress of the Expatriate Adoption Working Group, which I understand was established last year by your Department. This group was formed following concerns raised about the lack of equivalency of standards applying to expatriate adoption, and standard intercountry adoption.

Data from the Australian Institute of Health and Welfare (AIHW) contained in the annual Adoptions Australia reports demonstrate that the numbers of children coming to Australia through expatriate adoption processes began outstripping those arriving under the standard intercountry adoption program in 2011-2012 and this trend has continued. This is concerning when media reports highlight how much simpler and easier it is to undertake expatriate adoption (Saurine, 2013). The risk of child trafficking is very real, particularly in developing countries, even for those claiming to meet their obligations under the Hague Convention (Clair, 2012). For example, Australia suspended the intercountry adoption program with India in 2010 due to trafficking allegations and concerns have also been raised in relation to Ethiopia and this program was closed on 28 June 2012. It is therefore concerning that visas have been granted for adoptions from these countries in the past year (AIHW Adoptions Australia 2014-15).

The Australian Children's Commissioners and Guardians (ACCG) wrote to you on 2 July 2014 expressing concern that a lower standard was being applied for approval of expatriate adoption of children by Australians living overseas, compared to the standard intercountry adoptions being undertaken by Australians residing within Australia.

To bring a child to Australia, expatriate adoptive parents are only required to;

- show that they did not live overseas for the purpose of circumventing the legal requirements for the entry of adopted children into Australia
- demonstrate that they have lawfully acquired full parental rights in adopting the child, and
- complete an Australian National Police check.

This contrasts with standard intercountry adoption processes, which ensure there is compliance with the *Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption*, to prevent the abduction, sale or trafficking of children and focus on the best interests of children. To achieve compliance with the Hague Convention, prospective adoptive parents undergo rigorous



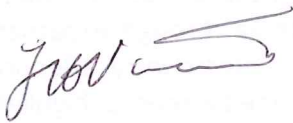
screening processes, undertake education programs and are enabled access to a range of support services within Australia. There is no guarantee that such screening and support will also be undertaken by the overseas country arranging an expatriate adoption. Upon return to Australia, children adopted through an expatriate process may not be known to adoption support services and may find it more difficult to obtain information or documentation about their birth family, as Australian authorities may have limited connections with their country of birth and there may be agencies in several countries involved.

Work undertaken by the Commission demonstrates that some of these children can have intensive involvement with out-of-home care services when they reach adolescence, as identity formation issues compound with early attachment and bonding experiences leading to family breakdown. It may only be at this point that the child and family access formal support services.

Unfortunately, the opportunity to examine the discrepancy between expatriate adoptions and standard intercountry adoptions was missed during the preparation of the Report of the Interdepartmental Committee on Intercountry Adoption of April 2012. The subsequent undertaking by the Council of Australian Governments in May 2014 to establish a national intercountry adoption service resulted in the Intercountry Adoption Australia national website and telephone information line being launched on 17 May 2015. However, these initiatives do not address the process of expatriate adoption.

I am very concerned about this vulnerable group of children not being afforded suitable legal protection and adequate service system support. I would be happy to discuss these issues in further detail and can be contacted on (03) 8601 5886.

Yours sincerely



Hon. FHR Vincent AO QC
Acting Principal Commissioner

References

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