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HCIA Implementation and the Best Interests of the Child

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The International Forum on Intercountry Adoption & Global Surrogacy (ICA Forum) took place at the International Institute of Social Studies (ISS) from 11 to 13 August 2014. The goal was to provide an opportunity for scholars and practitioners to come together to provide an evidence base for international adoption and surrogacy problems and/or best practices. The ICA Working Paper series summarizes the deliberations that took place at the Forum.

Each paper in the series is authored by a chairperson of one of the Forum's five thematic areas, with feedback from thematic area participants. There is also an executive summary by the organizer.

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Abstract

This report presents the topics and prevalent discussion points of the participants in Thematic Area 1 (HCIA implementation and the best interests of the child) of the International Forum on Intercountry Adoption and Global Surrogacy held at the International Institute of Social Studies in The Hague, the Netherlands, 11-13 August 2014. The overall aim of this Thematic Area was to identify examples of good practice and highlight issues and concerns about the ways in which the dictum of best interests of the child is currently implemented. The scope of topics that relate to the 'best interests of the child' is inevitably broad and sometimes controversial. The ethos of the sessions held in this Thematic Area was to provide a platform for a range of views to be explored in how intercountry adoption as a global practice might be improved to meet the interests of the children and adopted people involved. The participants represented practitioners, researchers, academics, adopted people and adoptive parents. Topics included the implementation of the subsidiarity principle, practices aimed at supporting adoptees, practices aimed at supporting adoptive families, current practices concerning special needs adoptions, and the ways in which children and childhood is currently framed within the Convention.

This report provides a brief outline of the development of 'the best interests of the child' as a concept in policy before presenting key aspects of the discussions held. These include, but are not restricted to, concern that the subsidiarity principle is implemented with the best interests of the child at the forefront of the decision process, and that best interests as a concept within the Convention should be expanded to encompass changing and life-long interests rather than only focus on childhood. Retention and access to accurate information about the circumstances of each adoption should receive greater prioritization in sending and receiving countries. The existing opportunity for international adoption organisations to attend Special Commission meetings and reviewing the operation of the Convention should be more effectively used to ensure that the on-going interests of the adopted person are a priority. Each session also highlighted the vital role that information, education and support plays for birth families, the adopted person, adoptive families and agencies in sending and receiving countries. Some of the ideas in this report may well extend beyond what the Convention can regulate. However, part of the power of the Convention lies not simply in what it stipulates but in how it frames children, adoption, adoptees and the family.

Keywords

INTRODUCTION

This report is based on findings from sessions that focused on HCIA implementation and the best interests of the child at the International Forum on Intercountry Adoption and Global Surrogacy held at the International Institute of Social Studies in The Hague, the Netherlands, 11-13 August 2014. The purpose of the Forum was to provide an opportunity for scholars and practitioners to come together to provide an evidence base for international adoption problems and/or best practices that might inform Hague Convention policymakers and HCIA Central Authorities.

The three thematic objectives for the sessions that focussed on HCIA implementation and the best interests of the child were, 1) to identify problematic issues in the concepts of 'best interests' and 'subsidiarity' and in the way they are currently implemented. 2) To review existing practice, identify areas of good practice and areas that could be further developed. 3) To critically consider how children and childhood are represented. With these objectives in mind five specific sessions took place where the following topics were explored 1) The subsidiarity principle, 2) Supporting adoptees, 3) Supporting adoptive families, 4) Special needs adoptions, 5) How children and childhood is currently framed within the Convention. The intention of these sessions was to discuss a range of topics that fell under the broad umbrella of the best interests of the child.

Data explored in this report were drawn from these five participatory sessions. With the exception of the session on supporting adoptive families each session was jointly accessed by Thematic Area 2 Intercountry Adoption, Countries of Origin, and Biological Families chaired by Riitta Högbacka and Thematic Area 3 Intercountry Adoption Agencies and the HCIA chaired by Peter Selman. The reports developed by these two chairs will therefore also be relevant to the broader discussion of children's best interests.

The number participants in this Thematic Area varied across the sessions from seven to approximately 45. The core participants have collaborated by providing feedback on the content of this report but it should not be taken as co-authored where all participants agree on the emphasis presented.

CONTEXT FOR CHILDREN'S 'BEST INTERESTS' IN POLICY DEVELOPMENT

Adoption is a contested concept. The power of kinship ideology and the universal assumption of the best interests of children being met within a family, demands that the integrity of the institution be protected as a moral standard (Model, 1994). The existence of, and need for, adoption arguably undermines this familial ideology and its premise on kinship through blood (Schneider 1968). Gailey (2000: 296) describes adoption as the most 'subversive challenge' to kinship ideology, underpinned as it is, by blood and genealogy (Howe, 2009; Schneider, 1968; Telfer, 2000). Modell (1984: 20) claims the existence of longstanding cultural resistance to acknowledge that 'blood ties' can be 'severed and replaced by contract'. Ryburn (1996) depicts adoption as subversive and destabilising, arguing that adoption provision has had a devastating impact on the rights of birth parents and should therefore be strictly limited. But it cannot be assumed that the best interests of children are always met within the institution of the family. Protecting and supporting children requires that we challenge such assumptions despite the controversies that such intervention may evoke. The best interests of children are not always neatly compatible with the rights and interests of parents, birth or adoptive, making children's best interests inevitably contested.

Interests in welfare are also contested (Spicker, 2008). They can be composed by powerful groups and imposed on the less powerful. The interests of a community can too easily become the interests of the few who have the power to define them. The 'best interests of the child' dictum emerged to influence policy in the second half of the twentieth century (Howell, 2006). It has become an established and pivotal narrative of contemporary policy development and welfare provision for children and is mostly concerned with child protection and child development (Pinkney, 2011) where the interests of children are assumed and protected by others. Such influence has not been restricted to policy but has affected all areas of intervention in what Howell (2006: 138) argues is an 'idealistic' approach to governing, representative of 'benevolent control of children and families by the state authorities' (Richards, 2013). The principle of the best interests of the child now underpins adoption discourse (Aldridge, 1994; Quartly, 2010).

Values and assumptions about what represents 'best interests' can vary, but in adoption policy they are inextricably linked to children's rights discourse (James et al., 1998; Qvortrup et al., 1994) and kinship ideology (McKie and Callan, 2012). Some form of family structure is deemed to be the most appropriate location to care for children and deliver their welfare needs. Adoption policies have been constructed and developed using familial ideology with the idea of the family being 'natural' (McKie and Callan, 2012; Modell, 1994) and in the best interests of children. The role of adoption policy has been to enable children to be re-incorporated into a family structure and to provide the most appropriate care for the wellbeing of children (Keating, 2009).'While some argue that adoption policy has not always held children's best interest to be foremost (Howell, 2006; Keating, 2001; Keating, 2009; Kadushin and Martin, 1988; Saclier, 2000; Quartly, 2010), the assumption that a family is where children naturally belong has been, and continues to be, self evident' (Richards,

2013: 39). However, despite children's 'best interests' being evoked throughout contemporary discussions about adoption, both domestic and intercountry, 'ambiguity remains in what the term actually represents (Richards, 2013). In part because the 'interests' are not always 'clear-cut or obvious' and are often constructed through other dominant positions such as the sending or receiving countries, adoption agencies, and human rights organisations (Saclier, 2000: 53-4).

What 'best interests' in adoption discourse means has changed historically as ideas about adoption have shifted. The 'clean-break' approach was once thought of as being in the interests of all concerned including children. This approach, prominent until 1950s, promoted assimilationist and redemptive ideas about adoption and its role in mimicking the biological or 'natural' family. The 'as if begotten' approach allowed adoption to be secret and supposedly 'murky' pasts to be forgotten (Gailey, 2000; Walton, 2012: 446). From the 1970s, birth/first mothers successfully challenges this approach (Quartly et al., 2013) and adoptees advocating their right to know their pasts (Harris, 2006; Kim, 2005; Samwell-Smith, 2000; von Melen, 2000). It is now well recognised that the 'clean break' approach is not in the adopted persons best interests and domestic adoptions have moved towards a more open approach. This perspective was reiterated throughout the discussions at the Forum with consensus that openness in intercountry adoption, though complex, should be encouraged.

In the session that explored best interests and subsidiarity principle, the presentation by Monica Dowling illustrated the subjectivity of the concept 'best interests' in adoption policy and the need for its implementation to be contextualised more effectively. It was argued that the term should not be used an abstract concept but as a process of decision making which should be practical and responsive to the changing interests of the adopted person. The participants emphasised the need to 'consider the individual child in front of us when making decisions on their behalf', arguing that adoption agencies must be held to account more effectively about the decisions they make.

With this procedural emphasis in mind the participants determined that a guideline and checklist of best interests should be implemented which informs the adopted person how the adoption decision was made through a discourse of best interests and using the subsidiarity principle. It was suggested that the guidelines should begin with the question, 'What should I be able to say to the adopted person about the decision to place them for intercountry adoption?' The proposed checklist below should not be taken as exhaustive but is indicative of the ways in which the best interests dictum can be practiced and evident in adoption decisions. It also demonstrates examples of how details of the circumstances surrounding adoptions can be made available to the adopted person.

1. How were the particular child's characteristics, circumstances taken into account when looking for an origin state welfare solution prior to adoption? How were possible consequences of delay for the child prioritised against the subsidiarity principle?

2. How were particular risks for a child determined and prioritized in the decision?

3. What welfare structures were available in the sending and receiving country when the decision to adopt intercountry was made?

4. Who was/is deemed adoptable in the origin state and receiving country at the time the decision was made?

5. How was the adoption decision made, by whom and what factors were taken into account?

6. What special or particular needs of the child were taken into account when making the decision to send for intercountry adoption?

7. What information was retained (in the form of a document checklist of information such as DNA, artefacts and first family information)? Described by one adopted person present as being, the 'big details as well as seemingly insignificant'?

8. What efforts were made to locate the birth/first family?

9. What specific efforts were taken to reunify the child with their first family?

The Convention already requires a Central Adoption Authority in countries of origin of children and in receiving states. The role of these authorities could be expanded to provide an integrated online information system. This would be open for the adopted person and first families to access and add information to. Receiving countries should also be held responsible for requiring that the information is gathered, accurate, retained and made available.

In her presentation Hollee McGinnis called for adoption policy to be viewed 'from the heart and not just from the intellectual perspective'. The adopted person seeks not just what she describes as being, 'big information' but also, 'little and seemingly insignificant' details about their past. The Convention does not define the nature of adoption and leaves this to national law. In some national legal systems, adoption is still 'closed', and such adoptions are clearly not in the best interests of the adopted person, the first family or indeed the adoptive family. It should not be assumed that adoptive families always want closed adoptions. My own research revealed a number of adoptive parents actively seeking ways in which more information could be found for their children as they grow older (see also Gray, 2009). 'Searching before the trail goes cold' is something that adoptive families engage in with little support from either sending or receiving states. A greater emphasis on more open approaches towards intercountry adoption would assist these endeavours.

On-going Best Interests

'Best interests' as a concept is not only ambiguous but also dynamic. These interests will change over the life course of an adopted person. The challenge to recognise adoptees as other than only young children is neglected in most welfare discussions. This dominant representation of 'adoptee-as-child' impedes the recognition of adoption as a changing and life long experience (Walton, 2012). A greater emphasis on the adopted person as *being* and also *becoming* is therefore an imperative. The need for the inclusion of the voices of adopted people is of paramount importance as an on-going aspect of their continuing best interests.

The United Nations Convention on the Rights of the Child (UNCRC) has been highly influential in determining which values are highlighted in the Convention (Dickens, 2012). A pivotal component of this is known as the subsidiarity principle.

Subsidiarity Principle

The 'subsidiarity principle' embedded in The Convention stipulates a number of priorities to meet the best interests of children. Initially it states that measures should be taken 'to enable the child to remain in the care of his family of origin' (Preamble para.2) where possible. Assistance should also be given to biological families to ensure that they remain intact, and, in the case of separation, support for reunification should be made available. If the options to protect the sanctity of the biological family have been exhausted or are not available then national adoption within the birth country of the child is the next alternative. If national adoption is not possible then providing a permanent home through intercountry adoption should be made available as a welfare intervention. In a prioritisation of possible solutions the Convention places permanent family solutions including intercountry adoption above temporary foster care or institutional care within the child's state of origin. Other organisations contest this prioritisation suggesting that the best interests of children must be met within their country of origin and this includes institutional care (Ja Sook Bergquist, 2012).

The Convention supports that comprehensive welfare provision for children should be developed in countries of origin alongside intercountry adoption. However, Smolin (2004: 451) claims that 'the monetary incentives to place children internationally can in practice totally overwhelm the appropriate priorities of a social welfare and services system'. However Bartholet (2012) contends that the UNCRC, UNICEF and Save the Children preference for seeking welfare solutions in many birth countries prior to ICA, defies the principle of best interest by delaying adoptions while non-existing or inadequate welfare solutions are sought. The practice of implementing the principle of subsidiarity is clearly controversial.

Discussions at the Forum reiterated the concern about the ambiguity of implementing the subsidiarity principle. When asked about whether it is a good principle, the response was that 'if it means that countries sign up to the convention to gain support for the welfare of children then it is good. But it must be subordinate to the best interests of the child and not the other way around.'

The practice of 'subsidiarity is not necessarily in the best interests of the child' and 'if adhering to the subsidiarity principle produces a result that is not in the best interests of the child it should not be applied'.

It was repeatedly stipulated that if intercountry adoption is to be practiced ethically it should only occur as intended, taking place when a child needs a family. The need to ensure that intercountry adoption practice is not driven by a demand for children by either adopters or adoption agencies was powerfully reiterated by Cruz in her keynote presentation at the Forum. Many participants, including Mark Riley, David Smolin, Kay Johnson, also highlighted examples where children were unnecessarily taken away from birth families.

Considerable debate concerning the ways in which support for first families should be organised took place in relation to the subsidiarity principle. Whilst some suggested that funding should come through agencies and intercountry adopters, others regarded this as potentially problematic. Nigel Cantwell suggested that the aim should be to eliminate all money from the process of intercountry adoption. Cantwell argued that adopters cannot and should not respond to wider issues of poverty even at the micro level concerning specific families. Donations by adopters to families may induce guilt about adopting some children and not others and ultimately contribute to the feeling that some children are being bought for donations to support others remain in families.

Others felt that externally funded orphanages that are linked to international adoption agencies should cease. Mark Riley suggested that this impeded the development of welfare structures in some sending countries. David Smolin suggested that it was possible for agencies to fulfil a role as supporting birth families and family reunification rather than just adoption. Nigel Cantwell argued that sending countries should be encouraged to request developmental aid to support preventative care to protect families and support family reunification.

SUPPORTING ADOPTIVE FAMILIES

Adopters are regarded as holding a variety of attributes both positive and nega-tive. They are socially constructed as being privileged consumers; willing acces-sories to abusive practice (Dowling, 2009; Quartly et al., 2013), and often per-ceived to be racially unaware (Barn and Kirton, 2012; Graff, 2008; Triseliotis et al., 1997). As prospective and actual parents, adopters are also required to re-spond to the multiple deficits that adopted children may individually have, to the extent that some argue they are expected to demonstrate the capacity to be 'super parents' in order to be deemed appropriate to successfully adopt (Leinaweaver, 2008). Yet their place as subordinate parents is uncontested in a discourse where adoption is construed as being, 'at best allowing the adoptive parent access to other people's children' (Quartly et al., 2013: 138). It is esti-mated that more than a million children have been adopted through intercoun-try adoption. Yet little is known about the contemporary activities and strate-gies that adoptive these families employ to support their children as they construct their belonging (Richards, 2012). Nor is there comprehensive formal support for families beyond immediate post placement. Reference to the need for support is evident in the Convention (Articles 9, 20 and 30) but leaves each State to determine what services should be provided.

It is in the interests of the adopted person and adoptive family to identify ways to effectively support families in addressing the racial, cultural and famili-al boundaries that the adopted person encounters. Katie Hoffman opened this important session. Hoffman's presentation highlighted examples of good prac-tice standards in support such as those posited by International Korean Adoptee Association (IKKA) and ChildONEurope. She also identified chal-lenges including the following questions that have yet to be resolved (see also Hoffman, 2013):

- Should minimum support standards be set for adoptive families? If so, what should they be?
- To what extent can support services be universally defined or expected?
- To what extent should they be differentiated from domestic adoption ser-vices?
- How do we overcome the challenges of funding, streamlining and normal-izing support provision?
- How do we define an 'effective' service and how do we determine which services are effective?
- How can we achieve a unified effort between adoptive parents, adoptees and professionals across disciplines in designing and providing lifelong adoption support?
- What do we need to do/change to accommodate adopted children with 'special needs'?
- What cooperation is needed between sending and receiving countries to improve adoption outcomes?
- What services can/should be developed for adult adoptees and birth fami-lies?

These questions are important to address in order to reduce current ambiguity surrounding post adoption support and reiterate its importance to sending and receiving states.

The concern not to pathologise adoption and the adopted person through specific adoption support is also a relevant concern. The need to incorporate adoption support into broader family services in receiving states was felt to be important to reduce this risk. Some agency representatives spoke of their frustration when adoptive parents did not seek the support that the agency determined was needed. However one anecdotal example illustrated the anxiety felt by parents in asking for help (Alessia, 2012). Applicants in the Netherlands had been refused a second adoption on the basis that they had been too reliant on support in their first adoption. It was determined that adoptive families are too often constructed as being 'other' by professionals working in the field. It was also recognised that families in general may be reluctant to invite social services into their home. This anxiety is supported by research with families who fear the removal of their children if they do not appear to be coping or in some way 'measure up' (Alessia and Roufeil, 2012). It should not be assumed that adoptive families are different in this regard nor should they be pathologised as such.

Support for adoptive families should be separate to support for the adopted person (McGinnis, 2012; Walton, 2012); however, there are some issues common to both. The need to address the stigma of adoption (Fisher, 2003), and tackle racism and discrimination was highlighted by adult adoptees and adoptee organisations at the Forum and through previous research (De Graeve, 2013; Dwyer and Gidluck, 2010; Gray, 2009; Hübinette, 2012). The Convention emphasises that due consideration in the upbringing of adopted children be given to ethnic, religious and cultural background (Article 16). Adoption support groups commonly focus on activities that aim to link the adopted person to their origin cultures, but it should not be assumed that these activities assist children in learning about ways to respond to racism in their adopted countries. Amending Article 16 to include race with ethnicity, religion and culture would separate race from culture and ethnicity more effectively and highlight the importance for state legislation to reiterate as part of any pre-adoptive and on-going support for families to address.

The Home Study

The importance of the home study as a starting point for discussions with adoptive families was emphasised in this session. The necessity for a report which covers aspects such as eligibility and suitability to adopt, family background and medical history and social environment is identified in Article 15 stipulated of the Convention (1993), but there is recognition that an unacceptable variation in assessment standards exists within countries that have ratified the Convention (Crea, 2012; Selinske, Et al., 2001; Triseliotis, 2000). Previous research has also linked disruptions in adoptions to poor and tokenistic approaches to the report or home study (Palacious et al., 2005). A rigorous home study is a vital starting point for the interests of children to be protected. Yet differences concerning the quality and length of the assessment are common.

Studies that include the perspectives of adoptive parents about the pre-adoptive courses and home studies, suggest that the required pre-adoptive course is not always focused on issues specifically relating to intercountry adoption and that social workers are sometimes not as informed about the process as the applicants (Alessia, 2012; Gray, 1999; Green Et al., 2007; Hoffman, 2013; Richards, 2013). A more standardised assessment process used by professionals within an ethical and legal framework would enhance the existing guidelines created by the Hague Conference (Crea, 2012). A home study which accurately reveals the capacities of potential adopters to meet the needs of adopted children is at the forefront of meeting their best interests. The need for the home study to address neglected topics such as racism more effectively was also emphasised throughout the Forum. Participants in this session also suggested that with increasing numbers of children with 'special needs' being adopted, there is arguably a greater need for an effective, standardised home study and for a comprehensive support structure to be developed which includes a sense of professional responsibility concerning support for families in adoption agencies.

Informal Support Organisations

The role of informal organisations to support families was also identified. Organisations such as 'Overseas Adoption Support and Information Services' (Oasis) offer courses for adoptive families such as 'Wise up' which tackles adoption stigma and racism with young adopted children and their parents. Voluntary and charitable organisations such as Children Adopted from China (CACH) in the UK have emerged as mechanisms of support for families and their children perhaps in the absence of the availability of more formal and stigmatizing support. Such organisations are argued to be insufficient in their current scope with too much emphasis on culture and not enough on ways to respond to racism (McGinnis, 2012). However, they would seem to be potential locations for more organising diverse support and guidance for adoptive families. Hoffman identified the following forms of informal support from such organisations: practical and emotional support; a source to exchange information; share experiences and establish networks including strategies and service recommendations. She also outlined the role of these organisations to normalise adoption and connect children and families with the countries of origin.

SPECIAL NEEDS ADOPTIONS

In his keynote presentation Hans van Loon [of the Hague Conference Permanent Bureau who attended the forum as an observer], identified the need to establish greater awareness of the issues related to special needs intercountry adoptions. He emphasised the importance of education for parents. This point was reiterated in the Forum session but was extended to also include better education and welfare support in sending countries to reduce relinquishment of children.

It was argued by a number of the participants at the forum that poverty and stigma were the driving force behind special needs adoptions. Appropriate implementation of the subsidiarity principle should ensure that birth families receive the medical and social care support they need to retain and provide for their children. Public awareness education should also focus on challenging perceptions of the term 'un-adoptable'.

Definitions

What 'special needs' means is time and context specific. But the need for sending and receiving countries to share common definitions was deemed to be vital in ascertaining how to match children with suitable adoptive families. The representatives of adoption agencies in this session agreed that while greater sensitivity about the labels attributed to children is needed, so too is clearer information provided by the sending country about the children and their specific needs. This lack of information and diversity of definition ensures that delays are common while agencies seek further information from a sending country, or, seek alternative families due to the specified needs being greater than originally suggested or addressed in the home study. Agencies report a discrepancy of what needs are accepted in the home study and the referrals that the agencies receive. This mismatch causes agencies to potentially encourage adopters to accept a referral beyond what they have been assessed for rather than lose the referral. Adopters are also turning down special needs children because they have not been assessed for specific special needs and fear that they will not be able to meet the needs of the child. This lack of information also leads to longer time periods for children waiting for adoption and a higher risk of disruption post adoption.

There is clearly considerable diversity of what special needs are, some disabilities are minor and others far more advanced. Psychological special needs as well as learning needs and HIV adoptees need consideration. In his presentation, Paolo Palmerini outlined how Italy defines children with special needs as being, sibling groups; older children (seven years and older); children with difficult pasts; physical disabilities; psychological trauma; and abusive family histories. Other adopted children are regarded as having 'particular needs'. While the resilience of children to overcome these particular needs is recognised. Palmerini also argued that there should be greater differentiation as currently the term 'special needs' is too broad. Participants also voiced concern that the definition should also include institutionalisation and malnourishment.

Quality of Agency Placement and Training for Children with Special Needs

It was argued in the session that there is little or no value placed on the quality of training, analysis and support provided by agencies and that currently the agency that prevails is the one that provides the service for the lowest cost. It was revealed that some agencies even do matching by phone. More monitoring of agencies is clearly needed. Currently it is up to each agency to design their preparation course and to determine best practice. In intercountry adoption tailoring courses to the needs of a specific child is difficult as the child is often unidentified. Therefore preparation tends to be generalised. Extra training, available at the point of referral would help address the specific needs of each child. There was also recognition that the referral brings a new realm of work with trying to identify the needs of a specific child at this time, often with limited information available.

One of the topics that emerged in discussion was the need for more training in agencies to support and assess the needs of older children who have been in institutionalised care. Agencies need to assist prospective adopters in understanding that institutional care itself can result in special needs. But it was argued that if agencies do not fully understand these issues they are not able to effectively assess parent's capacity to manage.

Families can access services as a preventative measure as well as an intervention strategy if problems arise. Professional support is needed to prepare children for adoption and for the first meetings with the adopters in the sending country. There was acknowledgement of the difficulty of placing children with special needs domestically in sending countries and the potential impact on already over stretched services of supporting children placed from overseas in receiving countries. It was argued that prospective adopters often have to work out for themselves what a child's needs are and go through a grieving process (as do birth parents who have a child with disabilities) if their experiences with a child's needs are very different from their expectations. Some adoptive parents are concerned about asking for help and support, as they fear that they may appear not to be coping. Some participants identified that the support that they do access is usually private rather than state provided making support dependent upon parents' ability to locate appropriate support services and their capacity to pay for it. There was consensus about the importance of good post adoption support and parents having access to specialist help quickly but concerns that support available currently often have long waiting lists. It was emphasised that adopters need time and space as well as support to work through particular issues related to adopting children with special needs. It was also highlighted by one agency representative that children who are not adopted through the Convention ultimately get more support when they arrive in the receiving country as the family go through the assessment process of obtaining an adoption order. 'Hague families are just left to ask for help'. Concern about whether receiving countries are currently able to provide the required support for these children and their parents by was highlighted by ISS (2014) and reiterated in this session at the Forum.

Education and Special Needs

Insufficient education for all those involved in special needs adoptions was an issue. In his presentation Paolo Palmerini outlined the importance of building the capacity of adoptive parents using a training model that focuses on increasing the knowledge and education of adopters. Better training and education of those who work for agencies was repeatedly emphasised. However, first and foremost the role of education was highlighted to protect family preservation. Preventing the need for these adoptions by reducing stigma and increasing knowledge about the care of children with special needs was considered to be essential in implementing the subsidiarity principle.

SUPPORTING ADOPTEES AND FRAMING CHILDREN IN THE CONVENTION

The Convention should not encourage the homogenisation of adopted people (Gray, 2009). Adoption as a dynamic, social but individually lived experience was reiterated throughout the sessions at the Forum. The need for on-going support arguably increases as the adopted person matures yet this is neglected when the focus within the Convention is predominantly concerned with children (Walton, 2012).

The prominence of advocacy groups organised for the adopted person and run by adopted people, has gradually emerged as adopted children have matured and found their needs and interests as adults neglected. These organisations are active in promoting the interests of their members and their inclusion in policy debates and development would enable some of the current limitations of the 'best interests' debate to be addressed. The Convention articulates the need to hear the voices of children and young people in adoption decisions in Article 4 and the Hague Conference has established a practice for the voices of adults to be heard at Special Commission meetings to review the practical operation of the Convention. NGO's representing adult adoptees have been admitted as observers to attend such meetings. However, as Hans van Loon [of the Hague Conference Permanent Bureau who attended the sessions as an observer] recognised in a discussion with Hilbrand Westra, there is a limitation in that only international NGOs can be admitted. It was argued by a number of the participants that organisations such as United Adoptees International (UAI) would offer a useful addition in policy discussions. The clearer the voices of adult adoptees are heard the better their best interests over their life course will be understood.

Information

Encouraging a culture of openness in adoption is a vital aspect of the best interests of the adopted person. This openness should be articulated more explicitly in national laws to compel states to recognise the inextricable link between access to accurate information and wellbeing in identity construction. This information need not only be related to birth families. Indeed not all adopted people search for birth families but information relating to the details and circumstances of their adoption can be invaluable and should be available.

Framing Children and Childhood

Orphans and adoptees are frequently attributed labels that imply vulnerability, dependence and passivity and victimization (Leinaweaver, 2008; Anzil, 2013) despite a recurring discourse in welfare provision of empowerment, agency and participation (James et al., 1998; Qvotrup, 1994). Such labels create images that Fraser et al. (2004: 39) argue reflect the power of adults to place individual children into de-personalising categories 'that spotlight membership of abnormal categories ahead of membership of childhood'. The language also conveys particular attitudes of behaviour towards certain groups of children.

Research conducted with adoptees suggests that they actively seek other identities that do not necessarily emphasise their status as orphan or adopted (Gray, 2009). Emond's (2009) research highlights children's awareness of their *becoming* status and ways in which they articulate the desire to move away from identity labels. In her presentation, Kim Gray began to explore the ways in which children and childhood are represented in the language used. Gray highlighted a polarisation of discourses that socially construct 'angry' adoptee or 'grateful' adoptee. Political activism is assumed to be a characteristic of an 'angry adoptee'. Gray suggested that the language used pathologised the adopted person rather than accounted for the diversity of adoptees lived experiences. Gray illustrated this point by providing an example from her own research where a participant spoke about her experiences at a post-adoption support group. Sam, a Vietnamese-Australian adoptee, claimed that in the support group she was only ever seen as an adoptee and that other parts of her identity were sometimes lost. She says, 'we are all adopted…we have our rights (but) I was not recognised for who I am but just as an 'adoptee'…the person gets lost in that focus' (Gray, 2009: 128).

Hilbrand Westra facilitated a discussion where it was reiterated that adopted people must be included in policy development if their on-going best interests are to be taken into account. It was also argued that greater consideration should be given in the language used by the Convention to include children as coming from and remaining part of a first family.

CONCLUDING REMARKS

This report has not attempted to reach a consensus on the ideas and suggestions for change presented at the Forum. The debates were extensive and, sometimes polarized. Presented here are content on some of the issues where significant debate was generated. The remit of the Convention is not limitless. Some of the ideas in this report may well extend beyond what the Convention can regulate. However, part of the power of the Convention lies not simply in what it stipulates but in how it frames children, adoption, adoptees and the family. This philosophy shapes the ideas and attitudes of sending and receiving countries. For example, encouraging countries to move towards open adoption would be an important step beyond the neutral stance the Convention takes and including adoption groups in policy discussions would increase the representation of the very people for which the Convention was created.

The following points were compiled by the participants of the 'Best Interests' stream as being indicative of the discussions held and pivotal as topics for change within the Convention. As such these represent recommendations where changes made will improve the lives of all those involved in adoption.

Key Points

- There should be an expansion of the scope of what constitutes 'best interests' to incorporate adoption as dynamic and lifelong.
- Post adoption services need to be expanded to reflect lifelong best interests of the adopted person.
- Support services need to be developed by and with adoptee organisations.
- The subsidiarity principle should remain pivotal but be better supported by sending and receiving countries and be subordinate to an individual child's best interests.
- Preservation of information about birth parents and circumstances that necessitated the adoption must be maintained for the interests of adoptees in adulthood. An online data base where this information could be stored with responsibility of both sending and receiving countries could be organised with the support of The Hague.
- Special needs adoptions should take place alongside public awareness, education, and medical and social care to reduce the stigma of special needs and provide greater support for families to care for the needs of their children in sending countries.
- Greater education in receiving countries for those involved in special needs adoptions, agencies, social workers and parents is essential.
- Greater opportunity for adoptee organisations and groups to be heard in Special Commission meetings to ensure their contributions to debate are prioritised.
- Knowledge learned about the changing needs, best interests and wishes of the adopted person throughout their life course should be taken into account in the negotiation of any further Convention concerning children and family formation.

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