



The adoption of children from out-of-home care: The understandings of key decision makers in Victoria, Australia

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ABSTRACT

Adoption is one of a range of options that can provide children in out-of-home care with permanency when they are unable to be reunified with their birth parents. This paper reports on how the adoption of children from out-of-home care is understood by professionals involved in making decisions about the permanent placement of children in out-of-home care in Victoria, Australia, where adoption is rarely used. Data were collected through a single, face-to-face semi-structured interview with 21 professionals; eight child welfare specialists, eight adoption and permanent care specialists and five judicial officers. The adoption of children from out-of-home care was primarily understood as a child-centered practice that can afford children stability and a sense of belonging. Adoption was largely viewed as a voluntary process dependent upon the consent of a child's birth parents. Adoption and permanent care specialists were the only group to refer to the dispensation of parental consent as a means of obtaining an adoption order. Most decision makers understood that contact between children and their birth parents is possible following adoption, but this was not understood by all judicial officers or all child welfare specialists. Children's connection to their cultural heritage was viewed as important to the consideration of adoption for children in out-of-home care. This research provides insight into the foundations upon which decision makers may appraise adoption, within a hierarchy of options, as a potential outcome for children in need of permanency.

1. Introduction

Out-of-home care provides children with care and protection when they have experienced, or are at risk of, abuse or neglect while in the care of their parents. Following children's removal from the family home, care is generally provided through kinship care, non-relative foster care or residential care. Whilst the out-of-home care experience is positive for some children, others experience multiple placements (Australian Productivity Commission, 2012; Casanueva, Tueller, Dolan, Smith, & Ringeisen, 2012; UK Department for Education, 2013) that can predispose children to poor developmental (Newton, Litrownik, & Landsverk, 2000; Rubin, O'Reilly, Luan, & Localio, 2007) and educational (Cashmore, Paxman, & Townsend, 2007) outcomes. With this knowledge, child welfare policy in Australia, and other developed nations, now places greater emphasis on providing children with permanency (Duquette & Hardin, 1999; Performance and Innovation Unit, 2000; NSW Department of Community Services, 2008). The primary goal of child welfare intervention is for children to achieve permanency through timely reunification with birth parents, or when this is not possible, to provide children with an appropriate, permanent placement, preferably within a substitute family. Across

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international boundaries attitudes differ as to how best to provide these children with permanency, drawing from a range of options that broadly include long-term kinship or long-term foster care, long-term residential care, guardianship and adoption; a legal process in which the legal rights and responsibilities of a parent are transferred from birth parents to adoptive parents (Australian Institute of Health and Welfare, 2014).

In both the United States of America and the United Kingdom, the adoption of children from out-of-home care is an established practice, with 50,644 children adopted from public care in the United States, and 5050 'looked after' children adopted in England during 2013–2014 (UK Department for Education, 2014; US Department of Health and Human Services, 2015). These figures reflect the outcomes of highly directive, federal legislation (*Adoption and Safe Families Act 1997* (USA); *Adoption and Children Act 2002* (UK)) developed, in part, on the premise that adoption affords children the highest level of legal protection within the adoptive family, and provides the majority of children with stability, particularly when they are placed at younger ages (Duquette & Hardin, 1999; Performance and Innovation Unit, 2000). The use of adoption incentives that reward individual states, or local authorities, for their performance in reaching adoption targets has helped to ensure that adoption is a strong feature of child welfare practice in these jurisdictions (*Adoption and Safe Families Act 1997*; UK Department for Education, 2011).

Interest in the adoption of children from out-of-home care has been evident at a federal level in Australia (Abbott, 2015; House of Representatives Standing Committee on Family and Human Services, 2005, 2007). This has been set alongside successive parliamentary inquiries and government research that has highlighted the impact of past legislation, policy and practice in Australia that underpinned the forced adoption of infants born to unwed mothers (Higgins, 2010; Kenny, Higgins, Soloff, & Sweid, 2012; NSW Legislative Council Standing Committee on Social Issues, 2000; Senate Community Affairs References Committee, 2012) and the removal of many Indigenous children from their communities, some of whom were adopted into non-Indigenous families (Human Rights and Equal Opportunity Commission, 1997). Public apologies have been offered by both state and federal governments to the individuals, families and communities affected (Australian Government, 2008, 2013; Victoria Department of Human Services, 2012).

However, the permanent placement of children is regulated in Australia by state and territory child protection legislation. Each state and territory has separate legislation that specifically regulates adoption. All current adoption legislation provides legal avenues for the adoption of children from out-of-home care, either through the consent of a child's birth parents to the adoption, or the dispensation of parental consent by the relevant court.

In the 2013–2014 reporting period, 89 children in Australia were adopted by their carers; 84 of these children were adopted in the state of New South Wales (Australian Institute of Health and Welfare, 2014), where there has been significant legislative reform to promote adoption for this group of children, and two children were adopted in Western Australia (WA Department for Child Protection and Family Support, 2014). It remains unclear as to which state or states were responsible for finalizing the remaining three adoptions and, in particular, whether any adoptions were finalized in Victoria. In a recent government report which described a research cohort of 1332 Victorian children aged under ten, who had resided in out-of-home care for more than one year, only one child had a case plan for adoption (Victoria Department of Health and Human Services, 2014).

Attempts to understand the current practice of adoption for children in out-of-home care in Victoria are limited by a paucity of relevant research. A small number of studies concerning the permanent placement of children in Victoria, have included adoption (O'Neill, 1997, 2001, 2004), however, the research findings do not differentiate between adoption and other forms of placement. It is of interest that these studies have drawn upon the experiences of children, birth families, 'permanent families', and, professionals (O'Neill, 2004, p. 208). Other studies, conducted internationally (Ali, 2014; Carter-Black, 2002; Ellis, Malm, & Bishop, 2009; Neil, 2007; Ryan, 2000; Ryan et al., 2011), and in New South Wales (Vihtonen & Bryant, 2012), have similarly recognized the value of involving professionals in the child welfare sector, as participants in research, to provide further insight into the practice of adoption beyond legislation and policy.

Therefore, the aim of this research was to increase knowledge of how the adoption of children from out-of-home care is constructed by professionals involved in making decisions about the permanent placement of children in out-of-home care in Victoria. The findings from this research have been organized under four headings that reflect the primary domains of the research; 1) How decision makers understand the adoption of children from out-of-home care, 2) How decision makers explain the current rates of adoption from out-of-home care in Victoria, 3) How decision makers understand the future role of adoption for children in out-of-home care in Victoria and 4) The major influences on decision makers' understandings of the adoption of children from out-of-home care. This paper, the first in this series, reports on – How decision makers understand the adoption of children from out-of-home care.

2. Study setting

Victoria is located in the south-east of Australia and is the second most populated state with approximately 5.8 million people (Australian Bureau of Statistics, 2015). The population is most densely concentrated around the capital city, Melbourne. In 2014, 7710 children in Victoria were resident in out-of-home care, with 2510 continuously in care for five years or more. As in other Australian states, Indigenous children are over-represented in the out-of-home care population in Victoria (Australian Institute of Health and Welfare, 2015).

2.1. The legislation governing the permanent placement of children in out-of-home care

The long-term placement of children in out-of-home care is regulated in Victoria by the *Children, Youth and Families Act 2005* (Vic). Decisions regarding the court order, and type of carer, that best provides for the long-term, stable care of a child are determined

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