

The Role of Media in the Development of U. S. Policy on Disrupted Adoptions of Children

By

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Abstract

Although U. S. citizens adopt more children than people in any other society, few realize the significant role played by media in these adoptions and the policies that govern them. This article examines the positive and negative ways in which media affect the processes of out-going adoption from the U. S. and disrupted adoption. The Internet provides a myriad of resources for prospective adoptive parents as well as for adoptees seeking to find their birth families. Social media can be helpful in these searches too, but they also may leave children vulnerable to possible trafficking and harm at the hands of pedophiles who may not be vetted in the course of transfers of custody. Thus, social media have facilitated unprotected, unregulated rehoming of previously adopted children, especially those adopted internationally. Fortunately, another medium – investigative journalism as reported in newspapers, on television and on the Internet – has exposed these problems and directly led to social changes, including new laws regarding rehoming which seek to protect the rights and lives of children. In an era in which many politicians and some segments of the population accuse the media of spreading “fake news,” their positive contributions to society should be welcomed and encouraged.

Keywords: Disrupted Adoption, Media, Out-Going Adoption, Readoption, Rehoming, U. S. Adoption Policy

Introduction

Many people are aware of the importance of media, including the Internet, for the adoption experience. They know one can get information about agencies, laws and resources; they recognize that adoptees can attempt to find their birth families on-line. What the public is less likely to know is that media have played a significant role in the development of adoption policies in the U. S. Two specific issues in adoption will be used to illustrate the connection between the media and the development of policy: the international adoption of children born in the U. S. by families from other countries and the unregulated custody transfer, more popularly termed “rehoming,” of adoptees either born in the U. S. or brought to the U. S. from other countries through international adoption. In terms of rehoming, the role of the media is seen as being both positive and negative.

A Model for Media Impact on the Development of Adoption Policy: Outgoing Adoption

U. S. citizens adopt more children internationally than those of any of other country (U. S. Department of State n.d., p. 3). In fact, at times they have adopted more children internationally than citizens of all other countries combined. What is less well known even among professionals in the adoption field is that for decades up to 100 children per year have been adopted from the U. S. to other countries (Avitan 2007; Engel et al. 2014; Naughton 2012).

Starting in the mid-1990s, journalists called attention to the fact that children were being adopted from the U. S. by families in Canada and several European countries including Britain, Germany, the Netherlands and Sweden (Brown 2013; Corley 2005; Davenport 2004; Engel et al. 2014; Glaser 2004; Hilborn 2010; O’Neill et al. 2005; *60 Minutes* 2005; Smiley 2004; Smolowe 1994; van Hooff 2010; *World News Tonight* 2005). Journalists reporting on these outgoing adoptions noted inadequate record keeping and the absence of federal

policies aimed at protecting adoptees leaving the U. S. Almost all of the outgoing children were under the age of four, usually under the age of one, as is customary in adoption. What was unusual and disturbing was that reporters unveiled the fact that children were almost always biracial or African American.

The Hague Convention on Inter-Country Adoption

It was only in 2008 that adoptees leaving the U. S. eventually received some protection when the U.S. agreed to the Hague Convention. The Convention is a voluntary international agreement designed to reduce or eliminate trafficking in children; to make international adoption more transparent; and to protect the rights of birth parents, adoptive parents and adopted children. It gives first preference to adoption by family members of the child, or at least people in the local community. When this is not possible, preference is to go to citizens of the child's birth country; international adoption is seen as a last resort when no other resolution can be found. These priorities preserve children's rights to be raised in their own country, ethnic group, neighborhood, religion and perhaps even family.

Statistical Reporting

Even after the Hague Convention was contracted, the U. S. federal government failed to mandate the reporting of outgoing adoptions. This resulted in issues of social justice and questions of the protection of children's rights under the 50 states' different sets of laws governing adoption. Although U. S. federal law was revised in 2012 when Congress passed the Inter-country Universal Adoption Accreditation Act, compliance was an issue and reports sent to the U. S. Department of State for inclusion in its annual report to Congress differed somewhat from those forwarded to The Hague. Further disparities between official and unofficial statistics resulted from the fact that if birth parents located potential adoptive parents outside of the U. S. without the help of a licensed agency, their transactions were not necessarily reported officially. This problem should have been corrected in 2014 when the Inter-Country Universal Accreditation Act took effect and required that all inter-country adoptions comply with the same accreditation standards as Hague Convention adoption cases.

It is largely because of the media that outgoing adoption became a social issue; but even now it is difficult to ascertain how many children born in the U. S. are internationally adopted, where they go, with

whom and what are the adoption outcomes. This stands in sharp contrast to "countries, such as China, that historically had extensive pre-adoption and post-adoption reporting requirements spanning several years, documenting the home, safety, education and health conditions of the children adopted from their countries" (Engel et al. 2014).

Unofficial cases rose through 2013, with a growing number of states involved and an increasing number of countries seeking children for potential adoptive parents (Illien International Adoptions 2011). A statistical advisor to the United Nations confirmed what journalists had been saying for years when he noted that there were 309 outgoing adoptions from the U. S. in 2009, only 27 of which were reported to the Department of State. Journalists continued to bring the situation of outgoing adoptees to the public's attention, trying to right the wrongs they saw in the U. S. adoption system, trying to get others involved in making the system accountable for these children through regulation resulting in protection for them (Brown 2013). For example, Sophie Brown, in a report for CNN (2013), noted that while there were at least 205 outgoing adoptions to just five receiving countries in 2010, the Department of State reported only 43 as being sent out of the U. S. to *all* receiving countries.

Impact of the Media on Rehoming Children in Disrupted Adoptions

The role of media in shaping adoption policy is also apparent in rehoming. Somewhere between 10% and 20% of adoptions can be defined as failed, otherwise known as disrupted or dissolved. Disruption occurs when an adoption ends before it is finalized and legalized; dissolution occurs when the legal ties between the adoptive parents and the child are severed after the adoption has been finalized ("Responding to Rehoming ..." 2015). *New York Times* reporter, Nicholas Kristof (2013), notes that this means as many as "24,000 foreign-born children are no longer with the families that adopted them." It is also possible that a child in a disrupted or dissolved adoption is American-born, but then he or she can go into the foster care system. Kristof (2013) argues that state foster care systems are reluctant to take an internationally adopted child. Moreover, according to Kristof (2013), giving such a child to the authorities may result in municipal or state investigations into possible abandonment, "abuse or (having to pay) for the child's care until new parents can be found."

There is an excellent report in social work focusing on risk factors in adoption disruption and dissolution, which was produced in 2010 by the University of Michigan in partnership with Hennepin County (Jones and LaLiberte 2010). In terms of the child's characteristics, age, special needs, and continued attachment to the birth family are defined as risk factors for disrupted adoptions. The role of race and gender is less clear. Among the family characteristics that are important are the adoptive mother's educational level (a higher level raises the risk of disruption) and the adoptive parents' ages are negatively correlated with the risk, as is religiosity. Agency practices also affect disruption. Rehoming is less likely to occur when children are placed with adults they know, especially relatives or their prior foster parents. Similarly, caseworker consistency and provision of supportive pre- and post-adoption services may prevent the need for rehoming.

In the past, disruption and dissolution were rarely discussed in public. Agencies worried that families would be reluctant to become prospective adoptive parents, and also feared that foreign governments might limit or eliminate the availability of their children to families from the U. S. But by 2017, even a catalog from Jockey International, the men's and women's clothing company, highlighted the existence of disruptions. This company's private charity, the Jockey for Family Foundation, Ltd., exists to raise awareness and funding for post adoption services. Their catalog introduced a stuffed bear and proceeds from its sale were to help support such non-profit, private services nationally and locally (JockeyforFamily.com, home page, 2017).

Private rehoming, with no agency or government oversight, is infrequently studied in the professional adoption literature although there are some relevant articles in law journals (Jordan 2015; Huber 2008; Roman 2015). The Donaldson Institute, a major research component of the professional U.S. adoption community, did not even mention rehoming in its December 2012 report, *Untangling the Web: The Internet's Transformative Impact on Adoption*, by Jeanne Howard. Adam Pertman, then executive Director of the Donaldson Institute, acknowledged the Institute did not talk about rehoming, or even know about it (PBS *NewsHour* 2013). But in December 2013, when *Untangling the Web II: A Research-based Roadmap for Reform* by Amy Whitesel and Jeanne Howard was published, the omission was corrected.

Adoption professionals in The Center for Adoption Support and Education, Child Welfare League of America,

Congressional Coalition on Adoption Institute, Dave Thomas Foundation for Adoption, Donaldson Adoption Institute, North American Council on Adoptable Children and Voice for Adoption prefer the term "unregulated custody transfer" because:

The term "rehoming" has long been associated with pet owners seeking new homes for their animals. Co-opting this term commonly used in connection with pets to describe underground child custody transfers suggests a benign practice and should not be used in the child welfare field as we work to positively impact human lives. ("Responding to Rehoming" 2015).

"The Reuters Study"

A major investigative report by Megan Twohey and a team of Reuters reporters brought issues involved in rehoming to the attention of the public and caused states to react quickly to the problem (Twohey 2013). Reuters' use of "rehoming," as opposed to the longer and more formal terms, "disrupted adoption" or "unregulated custody transfer," became popular in the media and, therefore, the term "rehoming" is used in the present article. The U. S. Government Accounting Office specifically credits media with bringing about its 2015 study, "Steps Have Been Taken to Address Unregulated Custody Transfers of Adopted Children," stating "recent media reports have illuminated a practice involving unregulated custody transfers of adopted children" (USGAO, Steps Have Been Taken ... 2015).

The study referred to an analysis of Internet sites where adoptive parents could place advertisements seeking new homes for their children; and similarly, those seeking a child could place an ad. Usually, no money changed hands and the whole procedure was legal – a simple, notarized letter transferred guardianship from one set of parents to another. This was not always considered a new adoption, but sometimes merely indicated new guardianship.

The Adoptive Parents

The advertisements reveal the desperation of some parents and the media capitalized on the most lurid and appalling cases to make their point. In describing her 11-year-old adoptive son from Guatemala, one mother stated: "I am ashamed to say it, but we do truly hate this boy." Kristof (2013) repeated Twohey's (2013) illustration of another mother who stated she was so desperate she would have given her daughter to a serial killer.

Adoptive parents may find themselves overwhelmed

because of idiosyncratic or private troubles, including illness, alcoholism or drug addiction, infidelity, or incarceration. But more often adoptive parents turned to the Internet because of problems in the adoption system. According to Twohey (PBS *NewsHour* 2013), the parents felt the agencies through which they adopted did not provide adequate training. Those adopting internationally, which is inter-cultural, often transracial, and frequently involves children traumatized by institutionalization, are offered a minimum of a ten-hour course in preparation for adoption, while those adopting domestically are offered a minimum of a 27-hour course (GAO September 16, 2015). Twohey also reported that the parents felt the children's emotional and behavioral problems had not been disclosed or were actually denied by the adoption agency. In essence, the parents had been lied to about the problems of the child and sometimes about the child's age. When the parents struggled to deal with these unexpected problems, the agency would not or could not help them. Finally, according to Twohey, if the parents turned to their state's government child welfare system:

...they didn't get any assistance. In fact, they were often told that if they wanted to relinquish their child to the state foster care system, they could face charges of abuse and neglect and put other children in their home in jeopardy (PBS *NewsHour* 2013).

In the absence of institutional protections in the form of agency policies or government regulations, the rehoming underground is largely lawless, leaving children "at risk for abuse and psychological damage" (Kunz 2014). Prospective parents seeking to adopt may be attracted to a rehoming website because it is low- or no-cost, as contrasted with the tens of thousands of dollars typically paid in international or private domestic adoptions. In addition, the new parents may become eligible for certain tax deductions or credits. They also like the fact that the process is quick – often under a week – as opposed to the months or years entailed in regulated adoptions. Finally, they avoid the entire vetting process, including checks on their mental health, immigration status, criminal record, home, and economic resources. Informal, unregulated custody transfer gives the undocumented and the poor a chance to adopt, but it does the same for the criminal and those with serious mental problems or records for sex offenses, including pedophilia. Unfortunately, therefore, unregulated custody transfer has the potential to turn into trading or trafficking of children.

Ads on Internet Rehoming Sites

Adoptive parents ill-prepared for the situations in which they find their families, and often left without assistance from the government or the private agencies that they dealt with, may be so desperate that they will do anything to find a new home for their adopted child. "Adoption-from-Disruption," a major easily accessible Yahoo site, was created in September 2007 to help struggling people seeking support from other adoptive families, but it also quickly became a clearinghouse for unwanted children. Reuters' reporters led by Megan Twohey completed a content analysis of over 5,000 messages on the site for the five-year period from September 2007 to September 2012 (Twohey 2013). Although the study had some methodological problems in which some cases may have been counted more than once, it certainly gave an indication of the extent of the child exchange on the Internet.

Reporters identified 261 children advertised, with some offered more than once (Twohey 2013). At the time the study was done, the children lived in 34 different states. Most of the children (at least 70%) had been born abroad; at least eight percent were born in the U. S.; the birthplace of the child was unclear in the remaining 22% of the ads. The foreign-born children came from 23 different countries, with the largest number being from Ethiopia (N = 29), Russia (N = 26), Ukraine (N = 20), China (N = 20), Liberia (N = 16), and Haiti (N = 14). No more than five children came from any other country. Girls (N = 135) slightly outnumbered boys (N = 123); in three cases, the reporters could not identify the gender of the child. Most children were between the ages of six and 14, but one was only ten months old; there is no indication of their ages when they were first adopted. Many of the children were said to have problems, usually attachment disorders (N = 106). Far less often, they were described as perpetrators of physical abuse (N = 25) or victims of physical or sexual abuse (N = 12). Even in successful adoptions, children adopted internationally often experience psychological and behavioral problems (Hjern et al. 2002; Judge 2003; Lindblad et al. 73; Tieman et al. 2005; Von Borczyskowski et al. 2006; Weitzman 2003).

Once Reuters shared Twohey's findings with Yahoo, the company quickly shut down the rehoming site. Reuters identified more than 500 users of the site as "members" who posted ads over the period studied; 184 people were members just before the site was shut down. The Yahoo site was one of eight in operation at the time. In addition, *Craigslist* accepted ads for rehoming as long as there was no mention of money involved for

the transfer of custody. *Facebook* was involved too. Unlike *Yahoo*, *Facebook* refused to intervene. Their spokesperson stated:

... the Internet is a reflection of society, and people are using for it for all kinds of communications and to tackle all sorts of problems, including very complicated issues (such as rehoming) (Vogt, 2013).

In criticizing this response, Vogt (2013) commented on a WNYC blog that:

Facebook's decisions about what to censor and what to let lie are often head-scratchers....Usually the arbitrariness inherent in these decisions is silly and frustrating but not deeply consequential. Here, the difference is that actual human misery seems to be furthered by Facebook's permissiveness.

Additional Sources of Information about Unregulated Custody Transfers

In almost all cases, whatever information the Reuters' reporters had was contained in the ads. However, in some instances court records and newspaper accounts were obtained. For example, court records revealed one troubled girl from Russia was rehomed three times within six months and was sexually abused in one of the rehomed settings. Journalists tended to focus on the more memorable or sensational cases in their effort to make the public aware of how the adoption system was failing children. For example, New York Times reporter, Nicholas Kristof (2013), highlighted the report about a crippled polio survivor from China who wound up in a home with 18 children under the care of a woman with an "explosive temper." The woman confiscated the leg brace which the child needed to walk and, according to court records, ordered her to dig a hole in the backyard as a punishment for misbehavior. According to Kristof, the hole was to be her grave.

The case most frequently cited from the Reuters' expose was that of Quita, a Liberian teenager with severe health and behavioral problems. The adoptive family did not vet the people to whom they transferred her custody after their two-year struggle of trying to make the adoption work. If the parents had delved into the background of the family to whom they transferred custody of their daughter, they might have discovered the following: that child welfare authorities had taken away both of Nicole Eason's biological children; and that her then partner was serving time in a federal prison for trading in child pornography. They might have also

learned that her current partner had serious health and legal problems.

Other children rehomed to the couple reported sexual abuse and having to sleep nude with the couple in their bed. A sheriff's report said "the parents have severe psychiatric problems as well as violent tendencies" (Twohey 2013). The only other so-called official document was what police described as a fake report supposedly written by a social worker after a home visit. The report actually had been written by Nicole Eason using a form she downloaded from the Internet.

Several days after transferring custody, the original adoptive mother called to check on Quita. She then discovered the girl and her new guardians had vanished. Furthermore, Quita had never shown up at the school in which she was to be registered.

Legal Considerations

When Quita and her new parents were found in another state, no charges were pressed against either adult, despite the fact that their action violated The Interstate Compact on the Placement of Children (ICPC). Though not specifically directed against private rehoming, the ICPC states that adopted children are not allowed to move across state lines unless state authorities are alerted. However, many people do not know about the existence of the ICPC or simply ignore it. Stephen Pennypacker, head of Florida's Department of Children and Families, acknowledged an agency often was unable to do much about ICPC violations because of the limited funding it received (Twohey 2013). So, the authorities merely put Quita on a bus alone to return to the family that had originally adopted her – and still did not want her (Twohey 2013). In January of 2011, ICPC administrators had warned child welfare authorities of the existence of underground rehoming, but this warning had no effect on the problem. Furthermore, if an unregulated custody transfer occurred within one state, there was no rule requiring court notification.

Sometimes adoptive parents turn to state agencies for help in a failed adoption. For example, in one case a family in New York State went to court to sue Spence Chapin and Cradle of Hope, the adoption agencies originally involved, for fraud. They wanted to get the agencies to relieve them of their parental responsibilities. The family argued that the agencies told them the children were healthy and well-adjusted when, in fact, they were neither. The children suffered "from serious mental disorders and are (after adoption) living in state mental health facilities" (Traster 2014). The judge, who equated private rehoming with child

trafficking, refused to vacate the adoption and ruled that the parents were not relieved of their parental rights. Judicial discretion enabled him to rule that they would have to get court approval to rehome the children even though in New York State rehoming is normally legal through completion of a notarized power of attorney form.

Judicial discretion is not the only variable in the patchwork of inconsistent state laws. Different laws govern adoptions and guardianship from state to state. Several states reacted quickly to Reuters' revelation. By 2014, five states passed laws to prevent private rehoming: Wisconsin, Colorado, Louisiana, Florida and Virginia. One year later Arkansas and Ohio also began cracking down on rehoming (Wetzstein 2015). Wisconsin's law, which has become a basic standard for such legislation, requires a petition and court hearing to decide if a transfer is in the best interest of a child. The procedure only applies to cases in which the parent delegates the care and custody of a child to another adult for longer than one year; transfer of care for less than one year requires no court involvement. Failure to file a petition may result in a fine of up to \$10,000 and nine months in prison. The law also prohibits advertising, including Internet postings, "for the purpose of finding a child to adopt or to find an adoptive home for a child" (Kunz 2014). Although many other states had pre-existing idiosyncratic and disparate statutes that could conceivably be invoked to prevent private rehoming, a local newspaper specifically attributed Wisconsin's new rehoming law to the state legislature's reaction to the Reuters' study (Stout 2014). In other words, the Reuters report helped bring about and shape the model for legislation enacted to limit or totally eliminate underground transfers of the custody of adoptees.

Lawyers have raised concerns about whether criminalizing rehoming is the best solution to the problem. Zhang (2016: 29), who credits Reuters with making the public aware of rehoming, argues it may raise public awareness, encourage deterrence, and provide legal ways to terminate an adoption, while protecting the child in question. However, Zang (2016: 30) also says that criminalization may not be a serious enough punishment to be effective and certainly does not address the underlying causes of rehoming. Finally as she notes, criminalization brings costs - it may dissuade prospective adoptive parents from applying to adopt and it can disproportionately impact poorer families. Moreover, it can be disastrous for children remaining in the household if their parent is arrested, prosecuted and convicted (Zhang 2016: 31).

Social workers, who also credit the Reuters report with defining rehoming as a social problem, also have questioned the viability of criminalization, especially if it is not accompanied by further pre- and post-adoption training for parents. Laws regarding rehoming are a grey area in which states, the federal government and, at times, The Hague are all involved independently. McIntyre (2016) suggests that, at the very least, the federal government must do more to resolve the problem. McIntyre also suggests that redefining rehoming as child abuse could bring to bear the power of the Child Abuse Prevention and Treatment Act (CAPTA). He argues that such a redefinition would impact the states, all of which have mandatory child abuse reporting statutes. Failure to report cases of rehoming would result in a reduction of federal funds to a state. Simultaneously CAPTA could extend the national clearinghouse's role in collecting data on abuse. Finally, this Act could make use of the "national clearinghouse's training resource system to train applicable professionals on rehoming" (McIntyre 2016: 1143). McIntyre also proposed supplementary state actions in the form of Safe Haven Programs. These programs would allow parents "to relinquish their adoptive children within a certain period of time, at state sanctioned safe haven locations, such as hospitals or fire departments" (McIntyre 2016: 1142). The children could then be turned over to state agencies where they would be cared for until either being placed in foster care or adopted.

Private Agency Involvement in Rehoming

Early in the evolution of the rehoming underground, several agencies, including Christian Homes and Special Kids (CHASK), an agency originally focused on adoption and home schooling for special needs children and pregnancy counseling for their birth parents, added a program to facilitate the process of rehoming. The program was not legally authorized, did not perform home visits and did not conduct background checks. Though possibly well intentioned, it actually exacerbated a dangerous situation. For example, CHASK sent two children to Nicole Eason before her activities came to the attention of the public through the Reuters study.

More recently the Wasatch International Adoption Agency (WIAA), a private agency originally founded in 1997, in Utah, with the goal of facilitating inter-country adoptions and educating children in orphanages abroad, added a new program. Its "2nd Chance for Children" helps families who are struggling with a failing adoption. Families being considered for new adoptions must have a current home visit and background check

in the state in which they live. They are provided with school records as well as medical and psychological information. The adoption is finalized in a court of law just like any other domestic adoption. Families that are placing a child for re-adoption are able to read about prospective families and “actively participate in the matching process in order to find the right home for their child” (2nd Chance for Kids 2017).

The program’s self-assessment defines it as successful in empathizing with adoptive families so they know they have done all they could to make their situation work given the resources they had. The program’s self-assessment also says it succeeds because new parents have a great deal of information about the child and so are prepared to “parent a child from an adoption dissolution” (2nd Chance for Kids 2017). WIAA charges the placing family \$1500 for its services. It helps the family find an attorney near home to ensure that they meet their state’s requirements for placement of a child; the attorney’s fees vary also from state to state. There are no external assessments of the agency’s process or success and there does not appear to be a consensus among judges approving re-adoptions.

Since 2006, the Council on Accreditation (COA) has served as a national accrediting entity authorized by the U. S. Department of State to provide adoption agencies with Hague Accreditation and Approval, but in late 2018 it will conclude its role as an authorized accrediting entity. COA established a rigorous accreditation and approval process as well as mechanisms to monitor and oversee the performance of Hague Accredited agencies and Hague Approved persons. COA is not involved with agencies that are not Hague approved. Thus, COA has little or no role in re-adoption procedures.

In addition to individual agencies, there are advocacy groups that provide detailed information about legal re-adoption. One such group is Rainbow Kids (2015), which publishes checklists for prospective parents on how to determine if they are good candidates to legally readopt. The Rainbow Kids checklists also provide questions prospective parents should ask the placing agency. These include asking about the information the agency placing should provide about the child; access to pre- and post-adoption services, as well as a list of costs.

Government Publications on Post-Adoption Services

While Rainbow Kids is a private organization that targets prospective re-adoptive parents, the Child Welfare Information Gateway (2012) is a service provided by the U. S. Department of Health and Human Services. The Child Welfare Information Gateway is a congressionally-

mandated and -funded information service of the U. S. Children’s Bureau, Administration for Children and Families. The Gateway provides extensive information for adoptive parents in need of post-adoption services. It discusses post-adoption issues that families often encounter: the need for support depending on age and developmental stages; loss and grief; trust and attachment; identity formation; family dynamics and adoption adjustment (e.g., parents’ grief over infertility); birth family connections; difficulties that result from children’s early experiences (trauma, health issues, developmental delays); and school issues. Types of post-adoption services are described and sources of additional information, including websites, are indicated. These include support groups; camps; social and heritage events; therapy and counseling; respite care; as well as educational resources (books, websites, workshops, seminars and conferences). Finally, the Child Welfare Information Gateway lists private and public organizations that provide services and support groups. Suggestions are made as to how to find financial assistance to pay for the services and ways to advocate for such services if none exist. While the information is extensive, being able to find and use it requires a considerable amount of education and facility using a computer. The Child Welfare Information Gateway does not provide oversight of adoption agencies, but lists only licensed agencies and provides extensive information about print and digital adoption resources. Such resources may help adoptive parents cope with the problems they face and so make rehoming less likely to occur.

Federal Response to Data Collection Problems

In September 2015, the U. S. Government Accounting Office (USGAO) acknowledged that media reports “have illuminated a practice of unregulated custody transfers of adopted children” (USGAO 2015). In response, the GAO launched a study to examine the reasons that adoptive families consider unregulated transfers; the services that exist to support these families before they make such a decision; what is known about the prevalence of such transfers; and what actions various states and the federal government had taken to address such transfers. Clearly, government efforts should also include investigation of the accuracy of information supplied to prospective adoptive parents prior to their decision to adopt a specific child.

The GAO study reviewed relevant federal laws and state regulations. In addition its staff interviewed officials from federal and state agencies, as well as from

private adoption agencies. The staff also searched online sites for “illustrative examples of families who may be considering unregulated transfers” (USGAO 2015).

The USGAO study concluded that the parents might not be prepared for the complex problems they and their adopted children face, especially if the children had experienced lengthy institutionalization or trauma. Furthermore, parents might find it difficult to locate therapists familiar with adoption issues. Even if they can find such professionals, they may not be able to afford intensive services such as residential care. For example, a Donaldson study revealed that, in 2010, residential care in Tennessee cost \$65,000 per year, while the state’s annual adoption subsidy was only \$4,824 (Smith 2010). These issues might lead adoptive parents to consider unregulated transfers.

Unregulated transfers occur without oversight and so are difficult to track and, as the USGAO (2015) noted, “no federal agency keeps statistics on their occurrence.” But by 2015, seven states had taken steps to address the problem of rehoming, either by enacting new laws to criminalize unregulated custody transfers or by restricting advertisements for them. Other states tried to apply existing laws to rehoming. However, the USGAO was quick to note investigations were time-consuming and costly for understaffed and underfunded agencies. This echoed the comments of Pennypacker, Director of the Florida Department of Children and Families, noted above. As of 2015, the Department of State planned to revise pre-adoption training requirements and “review their policies to address unregulated transfers” (USGAO Sept 2015).

A critique of the GAO study appeared on the blog of Mirah Riben, who researches, writes about and speaks on the adoption industry. Riben is encouraged “to see any federal level of oversight of adoption,” but is quick to add a generally negative evaluation of the study:

[O]ne 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.*

Judging from her comment about “bean counters,” Riben found more value in the earlier (2013) Reuters’ study than that by the GAO.

While the federal government is yet to enhance its oversight functions or correct its data collection system, there have been congressional hearings to curb private

rehoming of adopted children. Rep. James R Langevin, Democrat from Rhode Island and Co-chair of the Congressional Caucus on Foster Youth, has been at the forefront of federal efforts. He was the lead sponsor of a 2014 amendment to the 2008 Protecting Adopted Children Act. The amendment would provide for pre- and post-adoptive counseling, funding for counseling for adopted children, peer mentoring for adoptive parents and staffing for a 24-hour emergency hotline. However, the bill was referred to the Senate Committee on the Judiciary on February 22nd, 2016, and has not progressed from there.

CONCLUSION

A combination of several media – newspapers, television, and the Internet, including social media – have had a significant impact on U.S. adoption policy in at least two instances: regulation of adoption of children from the U. S. to other countries and regulation of rehoming. Hopefully, this analysis will lead to a discussion among the public, politicians, adoption professionals and adoptees about the power of media to help bring about socio-legal changes that can operate in the best interests of the children and so improve the lives of adoptees. These changes might include greater transparency in adoption, more information and training for prospective adoptive parents, access to and subsidies for therapy for those adoptees who need it, and education for the helping professionals so that they can be prepared to help families confronting the difficulties of challenging adoptions. It may also suggest that reporters and investigative journalists, increasingly distrusted by politicians and segments of the public for what has been termed “fake news,” can be recognized for their important work. The specific illustrations may offer some ideas as to how to harness the power of the media to help improve the U. S. adoption system, while simultaneously minimizing the negative impact other (social) media sometimes have exerted on the adoption process.

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