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<th>Children in Care and Permanency : A Comparative Perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Authors(s)</strong></td>
<td>O'Brien, Valerie</td>
</tr>
<tr>
<td><strong>Publication date</strong></td>
<td>2013-06-28</td>
</tr>
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<td><strong>Conference details</strong></td>
<td>The Irish Care System and Adoption, IASW, Dublin, 28 June, 2013</td>
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<td>Irish Association Of Social Workers</td>
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<td><strong>Link to online version</strong></td>
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Children in care and permanency: A comparative perspective

Paper presented to IASW Conference entitled ‘The Irish Care System and Adoption’.

Dr Valerie O’Brien
School of Applied Social Science, UCD
June 28th 2013

Available at UCD Repository.
Hoped for outcomes

- To gain understanding of *permanency* concept and how it may fit with *welfare regimes and legislative provision*.

- To consider how Irish *care population profile* and *adoption trends* needs to be taken into account as driver for change.

- To appraise what is known re outcomes of different permanency options.

- To explore what permanency options are used in Ireland and if options utilised?

- To assist in identifying and contributing to the debates that now need to happen in Irish child welfare.
Kelly remarks:

Everyone has an emotional investment in their experience of family life. No-one can pretend to look at issues of child care with anything approaching a scientific objectivity (2000, p 14).

- What is yours and how does this impact on what you think should happen children and families?

- How do we move from the simple to the complex?
To gain understanding of *permanency* concept and how it may fit with different *welfare regimes and legislative provision*.

- Def of permanency: from psychological to legislative
- Link with models of welfare: Fox Harding & why this is important
- How it differs: Boston / Berlin and where is Ireland?

- If particular features of Irish socio political context are especially influential?
Conflicting and competing rights and responsibilities …..

Birth Parents

Children

Foster Carers

Role of state in mediating these rights and responsibilities…………..not neutral
Welfare Regimes and typology of child welfare

- Welfare Models create structures and impact on interventions
  - Interventions:
    - Residual: Minimum state intervention
    - Institutional: State intervenes to protect common good
    - Developmental: State promotes & supports
    - Radical: Ideas of resistance
- Based broadly on work of Esping Anderson 1990, Hardiker 1991
### Application of Fox Harding’s 1997 Ideal types to Alternative Care incl Adoption

<table>
<thead>
<tr>
<th>LAISSEZ FAIRE</th>
<th>STATE PATERNALISM</th>
<th>BIRTH FAMILY DEFENDER</th>
<th>CHILDREN’S RIGHTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum state role &amp; family are respected to take care of their own</td>
<td>Major state role in policing families</td>
<td>Family life has a major contributor to soc</td>
<td>Children own voice &amp; should be empowered to be active in decision making</td>
</tr>
<tr>
<td>Sends out strong messages re child protection</td>
<td>State strong right to intervene</td>
<td>State intervenes but failure attributed to failure /resources</td>
<td>Silenced to date….now more developed</td>
</tr>
<tr>
<td>Adoption favoured as alternative</td>
<td>Foster care form of child rescue..adoption in LT</td>
<td>BP &amp; child relationship values &amp;supported</td>
<td>Children agency in own right…</td>
</tr>
<tr>
<td>Linked to residual</td>
<td>Linked residual /institutional</td>
<td>Linked developmental</td>
<td>Radical?</td>
</tr>
<tr>
<td>Gendered ..</td>
<td>Outcomes not considered adeq</td>
<td></td>
<td>Rights and responsibilities</td>
</tr>
</tbody>
</table>
Situating Child Welfare Provision Across a Range of Countries incl Ire.

A continuum

<table>
<thead>
<tr>
<th>USA</th>
<th>Ireland</th>
<th>Nordic Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min State Role / more</td>
<td>Closer to Boston than Berlin?</td>
<td>More Universal services</td>
</tr>
<tr>
<td>Selective &amp; Individual</td>
<td></td>
<td>Greater Focus on Common Good</td>
</tr>
<tr>
<td>Focus</td>
<td>Paternalistic?</td>
<td>Public domain</td>
</tr>
<tr>
<td></td>
<td></td>
<td>More Rights based?</td>
</tr>
<tr>
<td>&gt; Privilege of Private</td>
<td></td>
<td></td>
</tr>
<tr>
<td>domain</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laissez – Faire / Bureaucratic?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Tensions in Child Welfare Provision

- Saving children and supporting families
- Children’s rights vs. parent rights
- Individualized, pluralistic models interventions vs. standardized and uniform systems
- Protective services vs. family building and support
- Appropriate boundaries between different systems

Mallon & McCartt Hess 2005

Where different countries are located within Fox Harding’s typology determines ACTIONS?
Emergence in USA: from theoretical & value positions: attachment / psychological but linked with residual / laissez faire ideology.

Permanency movement advocated for ‘stable, secure family life for all children: hard to debate the downsides! Simple / complex

Never took off but it led to advocacy campaign for adoption...secure legal ground (Thoburn 2000)

Led to permanence vs reunification polarity: how were the odds stacked?
Different types of permanence

- Objective permanence: child placed in FC and stays there until they are 18 or longer.
- Subjective permanence: child feels they belong.
- Enacted permanence: child is made feel part of family and is treated as such.
- Uncontested permanence: child does not feel or is made to feel that they have to plea allegiance to either FC or BP.

(Sinclair et al 2007)

Implications of this typology for negotiations surrounding relationships...and what does this convey?
Permanency
Greater Termination
of Birth Parents rights

Family Preservation
Reunification & LTFC

USA  UK  Ire  Nordic
Questions

- If return home is not feasible, what sort of long term care is preferable?
- How are the long term alternative care options constructed?
- What is the child’s interest and how is this constructed? What about the child’s indiv situation?
- What is the ideology behind relationships in foster care: ownership and forever: shared and sustainable / changing?
- If foster care seen as a poor alternative, what is the evidence and what is assumption / myth?
- Who are the key opinion formers: BAAF, CWLA, Assoc of SW and is their value position explicit?
UK : Features of the system

- LTFC (permanent): seen as an option but to what extent was it premised on the belief that contact could be excluded?
- Conflict between 1989 Children Act that prioritised contact and Adoption and Children Act 2002 which saw permanency through adoption as preferred option.
- Permanence not defined in law:
- While Guardianship introduced, it creates greater vagueness re long term FC
USA: Key Features of the System

- Laissez Faire / Paternalistic
- Child Protection / risk averse?
- Huge levels of inequality
- Foster Care term used for all out of home care
- LTFC not a permanent option but Adoption is.
- Financial support and post adoption services available.
- Special needs: wide def
Hierarchy of Permanency Options Under ASFA

Return to the Parent Adoption Legal Guardianship Permanent Placement with a Fit and Willing Relative

Another Planned Permanent Living Arrangement (must document compelling reason)

Source Renne & Rideout 2005.
Petition must be filed when:

- Child in foster care 15 of the most recent 22 months
- Child is adjudicated as “abandoned”
- Court has waived duty to provide reasonable efforts to reunify (PH within 30 days)

Exceptions

- Child living with a relative
- Agency has failed to provide services
- Compelling Reasons

Source Renne & Rideout 2005
Some practices **permanency** has brought forth....

- Legislative drivers central in the system.
  - Eg permanency hearings triggered in the system

- Performance measures
  - Explicit criteria against which agencies are measured re throughput of children in care and prospective adopters

- Concurrent planning: developed to impede drift but it has led to increased polarisations including processes

- Outcomes for children: more adoption where legislatively it has been possible / outcomes?
Reasonable Efforts to finalize an alternate permanency plan *may* be made concurrently with reasonable efforts to reunify the family: Impact?

Source Renne & Rideout 2005
Permanence: Un-for-seen consequences?

- How to have ‘permanence’ ‘safety’ & ‘connection’?
- How to create permanence for children: Widen legal lens?
  - Would guardianship provide safeguards?

- Implications of removing parental rights and having legal orphans?
  - Moral implications where known resource shortfalls?
  - Implication for children’s Identity

- What are implications for permanence re kinship placements?
- Minimizing state involvement and protection of family privacy.
  - Who benefits from these dominant ideas? Whose rights are prioritised?
Section 2: Irish care population profile and adoption trends

- Irish care population profile and adoption trends
- What is the rate of care per 10,000 comparison?
- What is the length of time children spend in care (linked to different legislative)
- What is admission /discharge like?
- Movement in care: stability
- Adoption trends in Ireland
  - Domestic and ICA
  - Comparison across decade re domestic adoption
  - Out of care system
  - What do trends tell us?
## Comparison of Children in Care per 10,000 population in 2011.

**Review of Adequacy Report 2011, HSE, p 52**

<table>
<thead>
<tr>
<th>Country</th>
<th>*Date collected</th>
<th>Rate per Thousand</th>
<th>No in care 2010</th>
<th>No in care 2011</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ireland <em>(12/2010)</em></td>
<td>53.6</td>
<td>5965</td>
<td>6160</td>
<td>3.3</td>
<td></td>
</tr>
<tr>
<td>N. Ireland <em>(3/2011)</em></td>
<td>58.3</td>
<td>2606</td>
<td>2511</td>
<td>-3.6</td>
<td></td>
</tr>
<tr>
<td>Australia <em>(6/2011)</em></td>
<td>73.4</td>
<td>34069</td>
<td>37,648</td>
<td>10.35</td>
<td></td>
</tr>
<tr>
<td>Wales <em>(3/2011)</em></td>
<td>82</td>
<td>5162</td>
<td>5419</td>
<td>5.0</td>
<td></td>
</tr>
<tr>
<td>Scotland <em>(7/2011)</em></td>
<td>155.8</td>
<td>15,892</td>
<td>16,171</td>
<td>1.7</td>
<td></td>
</tr>
</tbody>
</table>
Variation of Rates of Care per 10,000 under 18: Thoburn 2006 Norwich

- Australia 45
  - Indig 237
- Canada 109
- Denmark 102
- France 90
- Ireland 54
- Italy 38
- New Zealand 40
- Norway 70
- ***Sweden 63? (UK 55
  - NI 56, Wales 66, Scot 58
- USA 70
  - N Carolina 47
  - Illinois 65
  - Washington 58
- ****VOB found 84 in 2009 Implications for data?)
There were 2,248 children admitted to care in 2011. This represented a fall of 5.2% (n=124) since the high point in 2009.

Need to do detailed analysis between admission and discharge and especially profiles to ascertain trends.

Care Variation across the 4 areas in Ireland from 64.1 per 10,000 in South to 46.6 in West, to 57.4 in D. NE and 47.1 in D. ML.
Where children are in care: Source
Review of Adequacy 2011: HSE

- Foster Care: 60.00%
- Relative Care: 30.00%
- Residential Care: 10.00%
- Other: 0.00%
% of children in care by length of time:

- Under one year: 23.1%
- 1 to less than five: 43.3%
- Five years plus: 33.5%

Source: HSE, Review of Adequacy, 2011
Adolescents in Care as % of Population

<table>
<thead>
<tr>
<th>% in Long Term Care</th>
<th>% Adolescents in Care</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>40%</td>
<td>45%</td>
<td>Ireland</td>
</tr>
<tr>
<td>11%</td>
<td>40%</td>
<td>USA</td>
</tr>
<tr>
<td>12%</td>
<td>68%</td>
<td>Sweden</td>
</tr>
</tbody>
</table>
Comparative rate where children have 3 plus placements in 12 month period.

Source: HSE, Review of Adequacy, 2011

<table>
<thead>
<tr>
<th>Country</th>
<th>No per total care population</th>
<th>% of children with 3 plus placements compared to full pop</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ireland</td>
<td>172 / 5965</td>
<td>2.9</td>
</tr>
<tr>
<td>England</td>
<td>7000 / 65,520</td>
<td>10.7</td>
</tr>
<tr>
<td>Wales</td>
<td>530 / 5161</td>
<td>10.3</td>
</tr>
</tbody>
</table>
### Trends in Foster Care and Adoption -- FY2000-FY2005

*Based on data submitted by states as of January 2007*

Source: AFCARS data, U.S. Children’s Bureau, Administration for Children, Youth and Families

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>In Care 9/30</td>
<td>552,000</td>
<td>545,000</td>
<td>533,000</td>
<td>519,000</td>
<td>517,000</td>
<td>514,000</td>
</tr>
<tr>
<td>Entries</td>
<td>293,000</td>
<td>296,000</td>
<td>303,000</td>
<td>295,000</td>
<td>306,000</td>
<td>311,000</td>
</tr>
<tr>
<td>Exits</td>
<td>272,000</td>
<td>269,000</td>
<td>282,000</td>
<td>282,000</td>
<td>283,000</td>
<td>287,000</td>
</tr>
<tr>
<td>Waiting</td>
<td>131,000</td>
<td>129,000</td>
<td>124,000</td>
<td>120,000</td>
<td>118,000</td>
<td>115,000</td>
</tr>
<tr>
<td>TPR</td>
<td>73,000</td>
<td>66,000</td>
<td>67,000</td>
<td>67,000</td>
<td>65,000</td>
<td>67,000</td>
</tr>
<tr>
<td>Adopted</td>
<td>51,000</td>
<td>51,000</td>
<td>53,000</td>
<td>50,000</td>
<td>52,000</td>
<td>52,000</td>
</tr>
<tr>
<td>Served</td>
<td>811,000</td>
<td>813,000</td>
<td>813,000</td>
<td>800,000</td>
<td>798,000</td>
<td>800,000</td>
</tr>
<tr>
<td>CHILDREN IN CARE IN</td>
<td>USA CHILD WELFARE SYSTEM</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>--------------------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children where adoption is care plan and awaiting legal finalisation</td>
<td>26%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children whose parental rights terminated and NO ADOPTIVE HOME IDENTIFIED (longer than 3 yrs)</td>
<td>13%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children exiting care Either going home or aging out of care</td>
<td>62%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Placement Analysis based on USA Central stats in 2011</td>
<td>Goal 2009</td>
<td>Outcome 2010</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>-----------</td>
<td>--------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reunification</td>
<td>49%</td>
<td>51%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adoption</td>
<td>0%</td>
<td>20%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LTFC</td>
<td>8%</td>
<td>8%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guardianship</td>
<td>4%</td>
<td>7%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living with relatives</td>
<td>4%</td>
<td>8%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age out of care</td>
<td>6%</td>
<td>11%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Domestic Adoption in Ireland

<table>
<thead>
<tr>
<th>Year</th>
<th>Total No of Domestic Adoptions</th>
<th>Number of Family Adoptions</th>
<th>Number of Non-Family Adoptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>317</td>
<td>197</td>
<td>120</td>
</tr>
<tr>
<td>2000</td>
<td>303</td>
<td>207</td>
<td>96</td>
</tr>
<tr>
<td>2001</td>
<td>293</td>
<td>196</td>
<td>97</td>
</tr>
<tr>
<td>2002</td>
<td>266</td>
<td>167</td>
<td>99</td>
</tr>
<tr>
<td>2003</td>
<td>263</td>
<td>171</td>
<td>92</td>
</tr>
<tr>
<td>2004</td>
<td>273</td>
<td>185</td>
<td>88</td>
</tr>
<tr>
<td>2005</td>
<td>253</td>
<td>191</td>
<td>62</td>
</tr>
<tr>
<td>2006</td>
<td>222</td>
<td>153</td>
<td>69</td>
</tr>
<tr>
<td>2007</td>
<td>187</td>
<td>144</td>
<td>43</td>
</tr>
<tr>
<td>2008</td>
<td>200</td>
<td>133</td>
<td>67</td>
</tr>
<tr>
<td>2009</td>
<td>190</td>
<td>148</td>
<td>42</td>
</tr>
<tr>
<td>2010</td>
<td>189</td>
<td>154</td>
<td>35</td>
</tr>
<tr>
<td>2011</td>
<td>39</td>
<td>16</td>
<td>23</td>
</tr>
</tbody>
</table>

Source: Adoption Board and AAI reports 1999 – 2011
Domestic Adoptions in Ire.
(Source: Adoption Board and AAI reports 1999 – 2011) Graph Source / Hannon unpublished.

Number of Domestic Adoption Orders Granted in Ireland
1999–2011

- Number of Domestic Adoptions
- Number of Family Adoptions
- Number of non-family Adoptions
Number of Children Adopted from Foster Care in Ireland 1999 – 2010

Source Adoption Board and AAI reports 1999 – 2011

- N.o of children adopted from HSE foster placements
- N.o of children adopted from adoption agency foster placements
Trends in intercountry adoption as *Impetus* for change in domestic adoption?

**Trends in Intercountry Adoption 1999–2010**

- **No. Of Declarations of Eligibility and Suitability granted under Adoption Act 1991**
- **No. Of Adoptions effected overseas and entered into the Register of Foreign Adoptions**
Impetus for change: Family building?

Need to consider against infertility rates?

Adoption Trends in Ireland 2000-2011

Adoptions, 2,678

Births outside of marriage, 256,733
To explore what permanency options are available and used in Ireland
How does this compare internationally?
What accounts for differences?
If options are not utilised, if so, why?
Different types of permanancy

<table>
<thead>
<tr>
<th></th>
<th>Ire</th>
<th>USA</th>
<th>UK</th>
<th>Europe</th>
</tr>
</thead>
<tbody>
<tr>
<td>LTFC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guardianship</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adoption</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- If you were to draw a picture, what type would emerge?
- What questions do you have at this stage?
Legal Guardianship uses in child welfare systems

- Recognition that children need stability
- **Ireland**: Special Guardianship introduced in 2007 Amendment Act.
  - Avail when child is in care for 5 yrs or more.

- **Legal Guardianship in USA** as part of ASFA 1997 Act: transfer parental rights to carer. (After 12 mths in care.
  - BP can apply to transfer Legal G and is less cut off than adoption.
  - It ends child welfare involvement generally.

- **Sweden**: First Introduced in 1983 and strengthened in Children and Parent Code 1990: available after 3 yrs care
  - Refers to transfer of custody
  - BP can apply for transfer back with level of ease
  - ‘Swedish model of permanency in foster care’
## Special Guardianship vs a vs other care data
(Source Mulligan 2012)

<table>
<thead>
<tr>
<th></th>
<th>Ireland 2008 data</th>
<th>USA 2010 data</th>
<th>Sweden 2009 data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Guardianship</td>
<td>Not recorded</td>
<td>29.664 or 4% of pop.</td>
<td>188 or 1.6% of care pop.</td>
</tr>
<tr>
<td>No adopted from care</td>
<td>(0.3%)</td>
<td>20%</td>
<td>(0.2%)</td>
</tr>
<tr>
<td>No in care and rate per 10000</td>
<td>6175 48</td>
<td>423,773 54</td>
<td>16,000 84</td>
</tr>
<tr>
<td>% under 3</td>
<td>11</td>
<td>26</td>
<td>6</td>
</tr>
<tr>
<td>% 4–11</td>
<td>44</td>
<td>34</td>
<td>26 (4–12)</td>
</tr>
<tr>
<td>% 12 plus</td>
<td>45</td>
<td>40</td>
<td>68</td>
</tr>
<tr>
<td>Less 1 yr in care</td>
<td>19</td>
<td>45</td>
<td>63</td>
</tr>
<tr>
<td>1–5 yrs</td>
<td>41</td>
<td>45</td>
<td>25</td>
</tr>
<tr>
<td>More than 5 yrs</td>
<td>40</td>
<td>11</td>
<td>12</td>
</tr>
</tbody>
</table>
Section 4: Outcomes of different permanency options.

- What are the outcomes for children that we are striving for?
- What place does the political /ideological have within this construction?
- Methodological challenges: comparing like with like
- Within research data available:
  - What is known re outcomes for LTFC
  - What is known re outcomes for Adoption
    - Correlation with what?
    - What are the questions that we are left with
The Twilight World & permanency

- Children living where they don’t belong to either family (Shannon 2000, 2010).
- Is this a paternalistic view? (Horgan 2002)

- If Special Guardianship, why is there so little information available on it and yet based on limited information, it has had very limited take up.
- Why?
Would a shorter time period than five yrs within which Foster carers can apply increase its use?
  ◦ To what extent does small country and importance of clan ties militate against permanency options?
Would more use of Guardianship help to stabilise more placements?
Claiming entitlement at a relationship level?
  ◦ How does it need to be constructed?
Is guardianship more in line with Article 8 of European Court for the Protection of Human Rights? Re family of origin than adoption?
SW knowledge, values and skill levels in enacting work? What part does this play in the use of it?

It should be considered on the continuum of permanent options.
Where to: what debates etc

- To assist in identifying and contributing to the debates that now need to happen in Irish child welfare.
- What have the debates been during the referendum and what do they now need to be about?
- How does the adoption option fit with historical legacy of ‘forced adoption’?
- Where is Ireland ideologically and how is this informing the issues?
- What does the Adoption Bill contain and what are implications for children, their families, carers now?
- What can we learn from other jurisdictions?
- What is the implications for future generations?


Ireland
Adoption Act 2010
Child Care Amendment Act 2007
Child Care Act 1991

Sweden
Children and Parent Colde 1990
Social Services Act 1980 (SoL)
The Care of the Young Person Act 1990 (LVU)

USA
The Child Abuse and Prevention & Treatment Act 1978
The Adoption and Safe Families Act 1997 (ASFA)
Social Security Act 1980