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<td>Authors(s)</td>
<td>O'Brien, Valerie</td>
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A CONCEPTUAL FRAMEWORK TO ASSIST IRISH REFORM IN ADOPTION AND CHILD WELFARE, INCLUDING LESSONS FROM THE USA.

Dr. Valerie O’Brien, University College Dublin

Presented at 'Reimagining Adoption as a Viable Care Option In Ireland' hosted by UCC ad UCG on Sept 24th 2015.
Objectives

• Consider offerings that *sociological, policy making analysis, practitioner & research evidence* and *law* can make to future direction.

• Prompt stakeholders to bring ideas into discussions, debates and decision making.

• Create best options for children and families in Ireland that take account of policy making process and multiple drivers /contexts in which it occurs.
An offering

• Conceptualization of Adoption in the context of child welfare systems: an opportunity for Ireland to learn from others?

• Historical - Present day.
  – Pathways, intersectionality, welfare regimes as influence on policy making process
  – USA : UK – Lessons to be learnt?

• Drawing together themes: what is the future?
Paper building on


Conflicting and competing rights and responsibilities ..... 

Birth Parents  
Children  
Extended Family /Kinship  
Adoptive Parent/s  
Adopted People  
Foster Carers  
Professionals

Role of **the State** in mediating these rights and responsibilities.............the **State** is not neutral  
Striking the right balance is difficult
Positioning

• Over 30 years professional immersion
• Insider / outside position
  • Insider: Adoption Board member; practitioner, researcher; personal connections.
  • Outsider position: researcher; international engagement & collaboration; ethical stance
• Systemic & social constructionist modes of inquiry:
  • Patterns that connect, discourse, dialogue and how meaning is constructed.
• Kinship care; Adoption and family professional decision making models.
What is been proposed in Ireland

• Change process which fundamentally shifts adoption as an adjunct in the public care system

• In a system that has undergone change from 1952 – 2015 but has been

• Operating until now on largely a ‘consensual’ basis.

• At the core of the proposal is issue of consent.
Some issues in the change process: from LTFC to Adoption

• Intersectionality between adoption and foster care in context of attending to *children in need*.
• Multiple constructs driving change? How are these been used?
• Multiple contexts of influence? Key actors?

• Is it LTFC and Adoption or privileging adoption over LTFC?
Some arguments for and against change to extend adoption as part of the care system.

For Adoption
- Alternatives *fail to provide security*
- Adopters available /untapped cohort
- Openness can mitigate risks
- Properly resources, it works and outcomes good
- Children’s right

Against Adoption
- LTFC is permanent option
- Increases stigma of care
- Destabilise LTFC system: carers/children
- State termination of parental rights – human rights
- Research evidence patchy /value driven
Key Aspects of Policy Making

Reactive; incremental, essentially conservative & difficult to redirect once it is on a path.

Internal champions; lobbying and interest groups

Key: Political and Administrative Structures / Culture

Parameters of law; resources and values

Bringing Legislative change: huge resources needed
DOCYA Assertion 2012

• ‘......the change is not intended for children who have contact with and have a strong beneficial relationship with their birth parents and wider family, unless the child’s parents have voluntarily placed the child for adoption.’

(Explanatory and Information Note of Draft Adoption (Amendment Bill 2012, p3).)
Conceptual Frameworks
Welfare Regimes: A Continuum

• Welfare Models create structures and impact on interventions

State Interventions:

• Residual: Minimum state intervention
• Institutional: State intervenes to protect common good
• Developmental: State promotes & supports
Fox Harding typology: Evolution of child welfare systems / Link welfare regimes

- LAISSEZ FAIRE
- STATE PATERNALISM
- BIRTH FAMILY DEFENDER
- CHILDREN’S RIGHTS
<table>
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<th>BIRTH FAMILY DEFENDER</th>
<th>CHILDREN’S RIGHTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum state role &amp; family take care of their own</td>
<td>Major state role in policing families</td>
<td>Family life has a major contributor to society</td>
<td>Children ‘own voice’ &amp; 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 &amp; long terms foster care</td>
<td>BP &amp; child relationship valued &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>Economic &amp; moral drivers</td>
<td>Foster care outcomes not considered adequate</td>
<td>Family preservation and identity</td>
<td>Ambivalence re rights and responsibilities</td>
</tr>
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</table>
Adoption Matrix: *(Adapted Kearney, 2012)*

<table>
<thead>
<tr>
<th></th>
<th>SUPPLANTED</th>
<th>SUPPLEMENTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>FORMAL</td>
<td>Legal Formal</td>
<td>Long term foster care. Simple adoption</td>
</tr>
<tr>
<td></td>
<td>Full adoption Traditional /closed</td>
<td></td>
</tr>
<tr>
<td>INFORMAL</td>
<td>De facto / common law</td>
<td>Extended family adoption /customary</td>
</tr>
<tr>
<td></td>
<td>CONNECTIONS?</td>
<td></td>
</tr>
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</table>
What to do with children in need of care?

- Supplant: Take it up by the roots. Uproot.
- Supplant
- Care of the Child
- Supplemented
- Supplement: Provide what is needed / making good a deficiency or shortcoming
- Level of formality in arrangements?
## Adoption Matrix: (Adapted from Kearney, 2012)

<table>
<thead>
<tr>
<th></th>
<th>Supplemented</th>
<th>Supplemented</th>
</tr>
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<tbody>
<tr>
<td><strong>Formal</strong></td>
<td>Full adoption</td>
<td>Foster care /simple ad.</td>
</tr>
<tr>
<td></td>
<td>Legal Transfer of rights /responsibility. State Record. No kinship ties between family groups.</td>
<td>Can be revoked. Two kinship groups. Legal basis.</td>
</tr>
<tr>
<td><strong>Informal</strong></td>
<td>De facto / common law</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Historical ‘abandonment Without legal sanction. No kinship ties. Voluntary care?</td>
<td>Extended family adoption /customary</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Oldest /mores. Within kinship group. Driven by family, community &amp; child need.</td>
</tr>
</tbody>
</table>
Adoption (Consensual?) and child welfare (Residual?): Pathways in Ireland:

1908
Children Act: UK Influence

1922:
State Establish Paternalistic / Catholic

1952:
Formal Adoption

1988 Act

2010 Act

2012 Bill:
Historical Evolution: Adoption, Child Welfare & Welfare Regimes

- Formal Supplemented-LTFC / Simple Adoption
- Informal Supplemented-Kinship / custom
- State Paternalism
- Defend Birth family
- Informal Supplanted-Strangers / De Facto
- Formal Supplanted-Legal Adoption
- Children’s Rights

History of Adoption

History of Public Intervention in respect of Child Welfare and Protection
Situating Child Welfare Provision & Adoption: Ireland in relation to UK, USA and Nordic Countries
How is the ‘best interest of child’ constituted?

A Continuum:

<table>
<thead>
<tr>
<th>USA</th>
<th></th>
<th>UK</th>
<th></th>
<th>Ireland</th>
<th></th>
<th>Nordic Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. State Role</td>
<td>&gt;</td>
<td>&lt; State Role</td>
<td></td>
<td>Constitution</td>
<td></td>
<td>Universal services</td>
</tr>
<tr>
<td>&gt; Individual focus</td>
<td></td>
<td>From universal to selective</td>
<td></td>
<td>Incremental / Mixed</td>
<td></td>
<td>Focus on Common Good</td>
</tr>
<tr>
<td>&gt; Privilege of private domain</td>
<td></td>
<td>Bureaucratic</td>
<td></td>
<td>Closer to Boston than Birmingham or Berlin?</td>
<td></td>
<td>Public domain</td>
</tr>
<tr>
<td>Laissez – Faire Bureaucratic?</td>
<td></td>
<td></td>
<td></td>
<td>From paternalistic to children’s rights</td>
<td></td>
<td>Citizenship &amp; Rights based?</td>
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Similarities in Trends across Ire, UK & USA Child Welfare Systems

• Most children are placed in care for neglect or for reasons related to poverty
  • Physically or sexually abused children more likely to receive services in the home

• Vast majority of children on reaching 18 return to their parents or extended families

• People who leave care: overrepresented among the homeless, people addiction, crime system....
Trends in USA Adoption Field

- More adoption than any other country
- Variation in individual ‘State Law’
- Huge influence internationally, esp. UK: trend setter
- Who is in care and who is left behind?
  - Adoption central to Public care system
  - ICA, falling numbers, increase regulation
  - Private / Independent sector accounts up to 50%
- Advocacy in relation to sealed record / identity.
- Advances Reproductive technology / surrogacy.
Issues in USA Adoption Development

1900 -1940
Modernisation & change; Emergence of professionalism; Adoption ‘fit’ as if born to the family.

Post War 1945
As if born to ‘beginning of ICA & transracial adoption; Lies of omission /tell minimum; Psychoanalytical influence – Goldstein et al

1970 -2000
Permanence movement; Legalism /termination; ‘best option attacked /BM & AP; defective process-demand openness.

Now
Openness/ coercive/ support/ethical lag /technology
Ireland - Adoption History

1900 - - - - - 1952
Informal; Church dominated; Shame illegitimacy/poverty; Residential / boarding out / Sent out

- 1953 - - - - - - - 1991
  ‘Fit as if born; sent out....1970, It is an option
  ...change ’70, Professionalization 1970
  Influence on Ireland joining EU - Secularisation

- 1992 -- - --- - - 2010
  Constitution, ntercountry adoption (Foreign)
  Openness 1990’s.....not legal

- Now
  Joining up child welfare, Permanence debate restarting,
  Hague regulation impact on adoption, economic retrenchment
The USA & Irish Adoption Story: 30 years Apart?

- **1900 – 1940**
  - Modern
  - Professionalization
  - ‘Fit ‘ as if born

- **Post War 1945-**
  - Alternative family form
  - Best option
  - Transracial : ‘as if born to’
  - Lies of omission ‘ tell basis only’
  - Psychoanalysis influence

- **1970-**
  - Permanence movement
  - Best option attacked AP /BM
  - Defective process /demand openness

- **1992 -- - - - -2010**
  - Constitution
  - Intercountry adoption (Foreign)
  - Openness 1990’s.....not legal

- **Now**
  - Joining up child welfare
  - Permanence debate beginning
  - Hague regulation

- **1900 - - - - 1952**
  - Informal
  - Church dominated
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  - Residential / boarding out / Sent out

- **1953 - - - - - - -1991**
  - ‘Fit as if born; sent out.....1970
  - It is an option ...change ’70
  - Professionalization 1970
  - Ireland EU
Address No of Issues

- Shifting principles and balancing tensions
- Permanence: unforeseen consequences
- Concurrent planning
- Focus on the past – Shaping the future
- Paradox of openness
Shifting Principles, How to Balance Tensions in the System & Future Practice?

- Safety, Permanence: Continuity and Stability
- Family-centred and connectedness to family and community
  - Minimum level of intrusion
- Strengths-based framework
- Cultural competence
- Advocacy needed in light of inequalities
- Cross-systems collaboration

- Partnership /dialogue needed regarding principles, processes, values and assumptions
Permanence : Unforeseen Consequences

• How to have permanence, safety and connection?
• How to widen legal lens to enable permanence?
• Implications of removing parental rights / legal orphans.
  – Moral implications re resources / termination
• Minimum State role – protection of family privacy
• Who benefits from dominant ideas? Whose rights and how to balance?
Concurrent Planning

- Reunification and adoption planning occurs at the same time and resources employed for both.
- Dual approval of carers
- Stretching Carers: new type of adopters
- Balance the processes
- Impact on performance culture
- Conflict of interest? Professional conflicts
- Changes over time
Focus on the Past : Shaping the Future.

• Wide range of people involved – Loss and trauma.

• Past adoption practices – response to illegitimacy/infertility & poverty
  – Choice / coercion; secrecy / silence; blame / responsibility; behaviour / attitudes individuals & organisations.

• Variability in how past is shaping adoption
  – Is it ‘forgive and forget/ don’t forget’ – capacity to remember as we move on
Practice Developments: Paradox of Openness

Identity formation: *who am I* – multiple not singular self.

Changing Family & kinship structure: *Complex blended families* (Pavao 2005)

Providing for Therapeutic needs if *contact* and *openness* is to be central;
Management, Mediation

We have skills in LTFC system and in systems with longer legacy of variation in family forms
What impact will a drive to increase and expedite adoption have on the child welfare and protection system?
IMPACT

Foster Carers:
If they do not wish to adopt?
Reasons why they may not want to adopt?
How will they be supported/post adoption support?

Children and young people
How to ensure that their views can be established: consent
What if they want adoption but carers don’t
Impact on sibling relationships
Adoption as Adjunct to Public Care System

• If better adoption outcomes correlate with younger age, how to balance parents and children's rights – contextual realities – scarce resources; reasons for care; pendulum swing.

• Openness in adoption: supplant or supplement

• It is predominantly a feature of the USA and UK systems: shift occurring? Australia / Ireland

• Link to Welfare system; neo liberal context.
Central Issues - Future of Child Welfare

• Permanence: broadening out of legislative provision - One size cannot fit all
  • Can there be a roll back from USA view of permanence?
• Can adoption in Ireland become really open: legislative lag?
• Business and corporate world influence: what happens when ‘means’ loses sight of the end?
• Multiple ways forward: ‘draconian / punitive influence in service provision: another way?’
• What does ‘best interest of child mean’? Accepted by all as a ‘good thing’. Lack of def.
• Making visible the ‘invisible processes’
What is Needed to Improve Outcomes for Children and Families?

• Reduction of poverty and more awareness of inequality
  • Dangers of pathology discourses
  • Community based services that are child centered / family driven.
• Cultural competence among professionals, organizations and systems
  • Disproportionality
• Research to better understand the problems, the dynamics – meta analysis
• Developing policies that support good practice and outcomes.
• Be clear re whose *interests* are been pursued?
• Systems will always be needed to meet children and family needs...........how do we do it?