Of kin and culture US children and international kinship care placements

Through voluntary or forced migration, families enter the United States as refugees, asylum seekers, documented or undocumented immigrants, students or temporary or skilled workers. They bring children or give birth to children who become citizens by virtue of having been born in the new homeland. Inevitably, some of these families will interact with public child welfare systems. Children are placed in foster care when parents die, are incarcerated, institutionalised, or abandon or neglect their children. When evaluating placement decisions for these children, child welfare workers usually overlook the resources of family members outside of the country. Grandparents and other close kin often have the ability and motivation to provide care for vulnerable relative children. Through case description and summary of domestic laws and international conventions, Dana Naughton and Kerry L Fay identify challenges to cross-border placements and make recommendations for further research and consideration.

Introduction

Individuals and families move to the United States for a myriad of reasons. They flee poverty, famine, war, civil upheaval or natural disasters. They enter as refugees, asylum seekers, documented or undocumented immigrants, students or temporary or skilled workers. They bring children or give birth to children who will become US citizens by virtue of having been born here. Several thousand of those who enter the USA are actually children, unaccompanied minors who find themselves in detention centres, jails, prisons or foster care settings as their right to remain in the country is determined.

Inevitably, some of these families will require intervention by the public child welfare system. Children may be placed into public care when parents or caregivers die, are incarcerated, institutionalised or have abandoned or neglected their children. When evaluating placement decisions for these children, child welfare workers working under the time constraints of federal and state guidelines, and armed with fears of additional layers of bureaucracies, are likely to overlook the placement resources of family members outside of the United States. Grandparents, aunts, uncles, cousins and even non-custodial parents living abroad often have the resources and motivation to provide care for vulnerable relative children.

This paper looks at this phenomenon from a US perspective. National and international laws and conventions addressing child placement are discussed and the impact of their constraints noted. The authors present case examples of successful intercountry placements facilitated through International Social Service-USA Branch, an agency that works with courts and state and county child welfare authorities to facilitate the safe transfer of children to the care of relatives living abroad.

Kinship care, as discussed in this paper, is defined as ‘the full-time nurturing and protection of children who must be separated from their parents by relatives, members of their tribe or clans, godparents, step-parents, or other adults who have a kinship bond with the child’ (Child Welfare League of America, 1995). This definition best encompasses the broad scope of relationships that should be assessed when considering child placement options.

Scope of the problem

No central agency in the USA keeps figures on the number of children who are placed with relatives outside of the country and there is no co-ordinating agency that outlines a protocol to be used in placing children outside of the US. The Immigration and Naturalisation Service (INS), the Department of State (DOS) and the Department of Health and Human Services (DHHS) do not provide statistics...
regarding the emigration of children from the United States. Implementation of the Intercountry Adoption Act (IAA, 2000) will at least codify the tracking of US children placed abroad for adoption.

The DHHS has implemented the Adoption and Foster Care Analysis and Reporting System (AFCARS). However, these data do not specify whether any of the foster care placements are outside of the United States. Similarly, AFCARS tracks the number of children who are adopted by relatives, but there is no way to determine whether any of these placements were beyond the USA.

Kinship care has traditionally occurred without state intervention, particularly in African-American and Hispanic families. A study by Sandven and Resnick (1990) found that the acceptance of informal adoption dates back to the kinship structures of ancient African cultures. Gleeson and Hairston (1999) note that approximately 2.15 million children lived with relatives without a parent present in 1994 and that in recent years the prevalence of informal and formal kinship care has increased among African-American and Hispanic families. As the number of children in foster care grows and the number of foster homes decreases, kinship care has come to be seen as an alternative to traditional foster care (Grogan-Kaylor, 2000). After a child is placed in state custody, states often try to engage families who have traditionally provided care informally in more formal arrangements. This is especially relevant in situations where the family is steeped in the values, traditions and practices of the culture left behind.

Intercountry kinship placements of children in the US foster care system should be an increasingly considered planning resource, since recent census reports indicate that one in five people in the USA are foreign born. The number of foreign-born residents and children of immigrants is at the highest level in US history: 27.5 million children have at least one foreign-born parent and of these 14.8 million have two. This group of children is rapidly growing: the proportion of births to foreign-born women rose from six per cent of all births in 1970 to 20.2 per cent in 1999 (New York Times, 2002). Since kinship care is increasingly the first choice for child placement among child welfare agencies (Green, 2000), it seems logical that these bi-national family systems are best served when assessments are made of the kinship resources available not just in the USA but also within their country of birth or heritage. For example, in the USA, more than six million children – approximately one in 12 – are living in households headed by grandparents or other relatives (American Association of Retired Persons, 2002). Since these figures account only for those families with relatives in the USA, it is likely, given the US migration and census statistics, that a great number of potential placements could be across US borders.

**US legal instruments guiding kinship placements**

In the United States, the Adoption Assistance and Child Welfare Act, the Adoption and Safe Families Act (ASFA) and the Interstate Compact for the Placement of Children (ICPC) are primary legal instruments that guide foster care and adoption placements and entitlements.

The Adoption Assistance and Child Welfare Act (PL-272) addresses appropriations and federal payments for foster care and adoption assistance through Social Security IV-E payments. ASFA (1997) attempts to address the issue of children lingering in care without clear permanency plans by placing time limits on certain aspects of placement and permanency planning. Interestingly, some of the time restrictions are lifted if a child is placed in kinship foster care. ASFA mandated a requirement for ‘concurrent permanency planning’. Concurrent planning requires both the development of a primary permanency plan, often reunification with parents, as well as an alternative plan in case the first one cannot be completed (see Monck et al, 2003). International kinship care planning may be most important during the concurrent planning phase. Given the time that it may take to complete an international enquiry (often comparable to interstate studies), it is important to
request it early in the permanency planning process.

The ICPC is law in all 50 states in the USA, the District of Columbia and the US Virgin Islands. It protects children from an ICPC state who are being placed in another ICPC state for pre-adoptive placements, foster care, group homes, residential treatment facilities, institutions and placement with parents or relatives. Children who are not in state custody may be placed in another state by an adult relative or guardian without ICPC approval.

The ICPC contracts provide important safeguards for children placed in receiving states. Protections include a complete home study prior to placement, fixed assignment of financial duties to the sending state or individual and post-placement reports. Prior to the ICPC, a receiving state did not have to provide the child with any services even if they had initially agreed to do so as a courtesy. Additionally, US public assistance programmes that may provide support to children in foster care (relative or non-kin) include: Medicaid, Aid to Families with Dependent Children (AFDC), Food Stamps and Supplemental Security Income (SSI).

International guidelines
As legislation, policies and practices in adoption and foster family care vary considerably within and between countries, a series of international instruments has been created to address the human rights of children and to protect them when placement outside of the parental unit is considered. Of the three instruments listed below, the United States has only signed onto, and is in the process of full implementation of, The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention, 29 May 1993).

The Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (December 1986) emphasises the need for the state to consider placement with parental relatives or appropriate substitutes. The instrument does not carry the power of law, but does articulate that the best interests of the child should be held paramount, including the right to affection, security and continuing care. It is noted for its attention to foster placements. Article 8 addresses the right to name, nationality and legal representation as well as the need for authorities to provide supervision of placement. Unfortunately, as of 2002, very few countries had signed this Declaration.

The Convention on the Rights of the Child 1989 (CRC) has been signed but not ratified by the USA, and been signed in over 190 other countries (United Nations, 1997–2003). It is the best-known international document articulating the rights of children and addresses the placement of children outside the family in the context of state responsibility for care and protection of children. The CRC holds in high regard the right of the child to continuity of cultural upbringing in terms of her or his ethnic, religious, cultural and linguistic development. Article 25 of the CRC articulates the need for periodic review of placement since many children potentially eligible for adoption live in orphanages or other institutions where they may be forgotten. The endorsement of periodic reviews is meant to ensure that at the earliest possible time, decisions are made regarding the child’s reunification with their birth family or extended family, or permanent care by an adoptive family.

The Hague Convention (29 May 1993) is significant for numerous reasons. For example, it outlines a hierarchical order of options regarding placements for children. Specifically, it recommends that family solutions (return to the birth family, foster care, adoptions) should generally be preferred to institutional placements, and permanent solutions (return to the birth family, adoption) are preferred to provisional ones (institutional placement, foster care). National solutions (return to the birth family, national adoption) are preferred to international ones (innocenti, 1998).

In aggregate, these measures function to express the importance of maintaining
the culture, values and familial environment of a child even as the necessity for placement outside of the parental unit is determined. In practice, however, none appear to have an operational effect towards ensuring intercountry agreement upon formats or standards for cross-border, non-adoption placements of children.

Current US practice
US states that border Mexico and Canada have devised their own methods of dealing with separated families, due to the relative fluidity of their borders. One example of state–nation relations in reference to child protection has been developed by Texas.

The Texas Department of Protective and Regulatory Services (TDPRS) has developed a ‘Memorandum of Understandings’ with El Sistema Nacional para el Desarrollo Integral de la Familia (DIF), for each of the four Mexican states that border four of the DPRS regions. The memoranda specifically mandate that they will consider parents or relatives living in the ‘other’ country for placement of children in custody. The agreement also establishes a standard home study format. Texas and the Mexican states also agree to exchange information and provide ‘co-operative supervision’. Each DPRS border region has at least one DIF liaison.

Similarly but less formally, Maine, Oregon and other Canadian border states share families whose membership resides in both countries. These states frequently work in collaboration with Canadian Provincial child welfare authorities. This relationship could be extended to cover all trans-border placements since the statutory language of the ICPC specifically opens it up for consideration of adaptation between Canada and the United States. Article 9 of the Compact states:

This compact shall be open to joiner by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. (American Public Human Services Association, 2001)

In sum, with the exception of a few border states, most child welfare workers will find themselves on their own when considering a child’s non-US-based relatives. Individual states and their child welfare systems are left to negotiate their own methods to ensure a safe placement with a non US-based relative when this may be a possible viable placement. While the ICPC provides clear protocols for transferring a child from one state to another, no such parallel instrument exists for children moving from one country to another.

The role of International Social Service
Begun nearly 80 years ago, International Social Service-United States of America Branch (ISS-USA) is a social work agency focused on addressing the needs of persons migrating between countries. From its onset, the organisation has worked with state and county child welfare authorities throughout the USA to facilitate the safe transfer of children to relatives abroad through the procurement of pre-placement social/home study evaluations, post-placement reports and a variety of other services. Service is provided by each country’s social workers, attorneys and other child welfare providers working within that country’s child welfare structure.

ISS social work professionals are linked to counterparts around the world through a network of national units. These operate in a federated structure located in over 140 countries, working on up to 20,000 cases per year. Each unit brings the power of its understanding of national laws and policies, social and legal systems, traditions and social practices, cultural norms and language. English, French and Spanish are the official languages for documents prepared and submitted through federation member agencies.

ISS-USA receives international home study requests for the purposes of kinship care placements from individual state child welfare offices and has agreements to provide these and other international case management services for several US states on a contractual basis. The sending state agency provides ISS-USA with a case summary on the child, including
court orders, relevant medical and psychological information and, if available, a sample home study format used by the state. These in turn are sent to the appropriate ISS office abroad, which works closely with its child welfare offices to procure the study. Communication is facilitated through ISS staff in both countries as the case progresses or changes. ISS thus serves as a single conduit through which information is exchanged, affording the US child welfare worker a single point of contact to ensure case continuity and collaboration until resolution.

Case examples

Twelve-year-old Rachel was placed under the guardianship of the state of New York due to abuse and neglect. It was important to Rachel and her family that she maintain her Orthodox Jewish traditions. Child welfare workers considered an interstate placement to a maternal aunt in Florida, but realised quickly that her itinerant lifestyle would create an unstable environment for the child. By far the most suitable placement appeared to be with her maternal aunt and uncle, an Orthodox couple in their 40s, in Israel. When contacted, the couple indicated an interest in caring for their niece.

Edward, aged eight, was severely beaten by his father, a migrant worker from Central America working in the United States. The father was arrested and Edward remained in hospital slowly recovering but sustaining some brain damage. His mother had died and his extended family resided in Central America, including his maternal grandmother who came to be with him during his hospitalisation. Hospital and county social workers felt that she would be a good caretaker. However, they were extremely reluctant to consider a placement without assessment of the grandmother’s living situation in Central America, evaluation of resources available to the grandson, who now had special needs, and follow-up post-placement supervision by child welfare workers in Central America. Moreover, they wanted to be certain that if the placement did not work out, child welfare workers in his country would facilitate return of Edward to the United States.

At eight months old, Cory was diagnosed with shaken baby syndrome and removed from his parents’ care. The parents were United States and Oceania nationals. US child protection workers identified grandparents in Oceania who wanted to care for their grandson and a home study quickly confirmed their suitability as guardians. The US court, however, returned Cory to his parents who were mandated to attend parenting, anger management and substance misuse counselling. Within several months, Cory again showed evidence of abuse and, after a second updated assessment was completed, he was placed with his grandparents in the foreign country.

These examples illustrate both dilemmas and resolutions for US child welfare workers who seek safe kinship placements for their young clients. Child welfare agencies may have a variety of questions about the international placement process including:

- What legal, political and cultural factors must a child welfare worker consider before seeking a placement with relatives outside the USA?
- Is it better, simpler or more expeditious to place a child in US foster care although close (blood), known and engaged relatives live outside the country?
- What special considerations must be made in terms of resources available to the child, familiarity with the family and culture abroad, the family’s capacity to provide for and love the child?
- What resources exist for problem placements?
- Should workers or courts ever be admonished for not considering relatives abroad who, were they living in the USA, would clearly be advantageous placements for their charges?

Case analyses

In the case examples listed, ISS-USA was contacted by US state child welfare workers who sent in referrals requesting social assessments in Israel and Mexico. ISS-USA case managers sent the case
summaries to their ISS counterparts abroad who, in turn, worked with their local child welfare agencies to obtain the assessments.

Assessments addressed the potential kinship care provider’s interest and ability to care for each child, criminal or police checks or local equivalent, the educational and medical resources available and any additional special needs identified by the US worker. In the case of Rachel, information was secured that indicated the aunt and uncle’s understanding of her situation, their plans for her care and description of their environment including religious practice. For Edward, following a positive home study, arrangements were made through ISS not only for his return to Central America but also to facilitate airport reception and meetings between his US worker (who escorted him back to Central America) and the Central American child welfare staff who would be providing supervision following his resettlement. In cases such as these, the US worker and court are responsible for discussing the placement with the child (when appropriate) and confirming that placement abroad is in her or his best interests. In both cases, home studies were completed within court-ordered time frames and the children were successfully placed with their relatives abroad.

ISS-USA currently assists in only a small fraction of intercountry placements. However, the organisation’s role is critical to ensuring the transfer of knowledge and expertise, as well as monitoring that each country’s child welfare and placement standards are upheld. The agency also performs a reverse role, that is, when foreign children are placed with relatives in the United States, ISS-USA works with state child welfare agencies and the ISS offices of the child’s home country to ensure that placement standards and procedures are followed.

**Barriers to international kinship placements**

There are many potential barriers to intercountry kinship placement, including immigration issues, cost and other financial issues, court time limits, language barriers, ignorance of intercountry placement possibilities, fear of lack of continuity of services for the child and ongoing court requirements, and ethnocentrism. The list can be expanded to include already overworked caseworkers’ personal concerns, such as the additional paperwork and time required, potential lack of supervisory support and lack of interest in undertaking a non-mandated process for an out-of-country placement. CPS workers, who have often experienced the lengthy waits for home studies in the ICPC process, may be concerned that an intercountry home study and placement agreement may take much longer and involve more bureaucracy.

One of the major hurdles in successful kinship care placements concerns immigration criteria. Regulations differ from country to country and it is often difficult for workers to obtain this information. Consultation with immigration attorneys, or other legal counsel, may require additional time to process an international placement. Immigration issues can often be addressed by consulting embassies, federal government and international agencies. Fortunately, immigration obstacles can often be overcome with persistence and solid evidence that the child is under the jurisdiction of the sending state which is requesting the placement in consideration of the child’s best interests.

Another potential barrier to intercountry placement is child welfare workers’ general concern about placing a child in another country. Some of this concern may be based on ethnocentrism: the worker may think that the child will only do well if kept in the United States – that the child ‘belongs’ to the USA. The worker may be sceptical that the other country will have the child welfare resources needed to supervise the placement or that the family members themselves have the personal and environmental resources to afford care. With violence occurring in many regions, some workers may be worried about travel in general or US citizens living in other countries. Complete home studies should help alleviate some of these concerns, though they will do nothing to overcome
any inherent bias against placement outside of the United States.

Financial issues are always a concern in child placement. Placing a child abroad is likely to result in larger than average up-front costs. Travel and initial settlement expenses can be quite costly, particularly if the child has to travel with a worker. However, once a child is placed costs are generally similar to kinship placement costs if the child stays within the USA. On occasion, workers, states and countries are able to transfer standard kinship care subsidies to the relative providers. Alternatively, if the child was previously considered ‘hard to place’ and the state was expecting to pay foster care or residential facility payments until the child turned 18, payment may be eliminated entirely if the child is adopted by the foreign kin care provider.

**Further research and recommendations**

There is certainly a need for further research on this topic, as the studies that currently exist on kinship placement appear to exclusively address in-country placements, and even that is considered to be ‘in the early stages of development’ (Shlonsky and Berrick, 2001). It is inadvisable to generalise research done on children placed in domestic kinship care to include children placed in intercountry kinship care. For example, existing research often cites proximity to nuclear family as a primary advantage to kinship placements (Testa and Rollock, 1999), which obviously doesn’t apply to intercountry placements. The value, viability and success of intercountry kinship placements should be evaluated independently of domestic care but with some similar criteria to those considered in domestic placements: behavioural, educational, medical and psychosocial outcomes, as well as the demographics of the families willing to accept such placements. Additionally, study is urgently needed in the area of assessment of adjustment, both in terms of the child being placed in what may seem like a foreign culture or the receiving family’s adjustment to the child. The birth parents’ perspective on placement abroad is also critical. In some instances, identification with the culture left behind may be far more tangible for the parents than for the ten-year-old now in need of placement. A child fearful of making the transition or without any emotional or cultural ties to his family members abroad may not be served by being placed with relatives outside of the USA. It is also possible that placement in US foster care, with its proximity to the parent, may be far more attractive to a parent than placement with grandparents who may be an ocean away.

While research is needed to address the above concerns, action is needed urgently on the policy, administrative and clinical levels to ensure some standardisation of procedures and implementation of child welfare standards when considering an international kinship placement.

A provocative and more global form of collaboration might be the formation of an International Compact for the Placement of Children, an instrument that would seek co-operation between member states to ensure the safe transfer of children as they are placed with relatives in other countries. Such a model has antecedents in the ICPC in the USA and similar inter-jurisdictional procedures developed by the European Union countries and the UK. The International Compact could rely on the already existing foundations of child welfare standards and collaboration laid out in intercountry adoption practices as promulgated in the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The Hague Convention, with its requirements of child and prospective adoptive parent assessments, post-placement evaluations, assurance from the foreign country that the child will be allowed legal status in the receiving country and additional child protection and intra-agency standards, already possesses much of the language, ideology and law that should inform and facilitate a similar international kinship compact.

Meanwhile, as an alternative to worldwide regulation, two recommendations are made. First, countries that border one another where there is frequent travel of their citizens should develop mutual, reasonable, written standards for the...
protection of children, and their families, in kinship care placements. Second, when a child is placed in an intercountry kinship care placement a clear, written agreement of sending and receiving agency responsibilities should be developed prior to sending the child(ren).

On a case-by-case basis, ISS-USA has been working with numerous child welfare offices throughout the United States to facilitate placements abroad using these standards, securing pre- and post-placement reports and providing a global link for ongoing resources to be identified and accessed.

Conclusion
The confluence of ASF A, with its emphasis on concurrent planning, and the demographics of the USA indicating record numbers of foreign-born persons now living in that country, suggests that US childcare workers would be well advised to consider child placements with relatives abroad. Standards for kinship placements are promulgated by the Child Welfare League of America (1995) and standards exist for placement through international adoption by agencies such as the Council on Accreditation for Children and Family Services (2001). These standards provide solid, if non-mandated, guidelines of practice to inform and support the safe placement of children abroad. However, until passage of more comprehensive international legislation recognising a global commitment to collaboration among countries in international kinship arrangements, it may be unlikely that non-US kin are considered in any great measure as a placement resource.

References
American Association of Retired Persons (AARP), Care State Fact Sheets: A resource for grandparents and other relatives raising children, 2002; available online at http://research.aarp.org/general/kinship_care.html
Council on Accreditation for Children and Family Services, Agency Information, 2001; available online at http://www.coanet.org
Gleeson J P and Hairston C F (eds), Kinship Care: Improving practice through research, Washington, DC: CWLA, 1999
innocenti digest 4-Intercountry Adoption, compiled by the UNICEF International Child Development Centre, ISSN 1028-3528, December 1998
Intercountry Adoption Act of 2000; available online at http://www.jcics.org/hr2909en.pdf
© International Social Service, United States of America Branch, Inc., 2003