

## HSSW413/513 Assignment 2 Human Rights and Social Justice

Name: Gabbie Beckley. Student No: 220095376. Word count: 3000

*Use this template for your assignment. The criteria that you will be marked against are below. Use the marking criteria to guide you about what is important to include in your writing.*

*Start typing your assignment (or copy and paste it into this file) from page 3. Submit the assignment through e-submission. Your assignment will then be assessed by the unit coordinator and you will receive your mark and feedback on this same form.*

In Chapter 5 of the textbook 'Human Rights and Human Needs', Ife explores the issues and problems in defining and differentiating between human needs and human rights; for example, the need to be educated in a school of your religion, versus the right to be educated at all.

Write an essay exploring how human needs and human rights are defined and explored within one issue currently under debate within the human rights arena. This issue MUST be different to the one you explored in Assignment 1.

1. Choose an issue currently under debate within the human rights arena.
2. Using peer-reviewed articles and scholarly books, as well as media pieces, to justify and strengthen your arguments, make sure you cover the following points:
  - Describe and define the issue you've chosen to explore and why it is important.
  - How are human needs defined and argued within this issue? Is the "need" for a particular population or can it be justified within a particular historical context?
  - Which human rights are considered relevant to this particular issue? Has this been justified under a specific convention?
  - How has this issue been perceived and debated within your specific profession? Has your specific profession undertaken any action with regards to this issue?

HSSW413:

Total length: 2000 words

Weight: 50%

HSSW513:

Total length: 3000 words

Weight 50%

HSSW413/513 Assignment 2 Human Rights and Social Justice

| Description: Assignment 2   | High Dist. | Dist. | Credit | Pass | Fail       |
|---|------------|-------|--------|------|------------|
| <b>Academic Writing (Structure &amp; Language) 5</b>  |            |       |        |      |            |
| Clear and logical organisation and appropriate structure presented as per guidelines, including an introduction, conclusion and headings as required  |            |       |        |      |            |
| <b>Concepts (Content &amp; Issues) 20</b>   |            |       |        |      |            |
| Clear identification, definition and explanation of central concepts<br>Evidence of focused reading and research to locate and develop knowledge of key topic areas   |            |       |        |      |            |
| <b>Analysis &amp; Critique 25</b>   |            |       |        |      |            |
| Application of knowledge and understanding to the topic question to critically select, analyse and synthesise information from course materials and additional evidence-based sources<br>Effective communication of issues, ideas and arguments, with a logical development and flow of analysis and discussion |            |       |        |      |            |
| <b>Total</b>  |            |       |        |      | <b>/50</b> |
| <b>Deductions may be applied for the following:</b>   |            |       |        |      |            |
| Word limits (± 10%) not observed  |            |       |        |      |            |
| Editing & proofreading (spelling, grammar, punctuation, sentence & paragraph structure) not satisfactory  |            |       |        |      |            |
| References incomplete/inaccurate  |            |       |        |      |            |
| Late submission outside approved extension<br>(Reduction of overall mark by 10% per day)  |            |       |        |      |            |
| <b>Total deductions</b>   |            |       |        |      |            |
| <b>Adjusted total</b>   |            |       |        |      | <b>/50</b> |

Overall mark:

/50

Assessed by:

Date:

Marker's general comments:

- ***Describe and define the issue you've chosen to explore and why it is important.***

From the time of Moses to more recently Madonna, there has always been international transracial adoption. From an Australian perspective it was the fall of Saigon during the end of the Vietnam War that signaled the beginning of intercountry adoption to Australia, it was known as “Operation Baby lift”. International adoption is seen as a way to “save poor orphans” by transporting them across international borders and raising them in the “western ideal” with white middle/upper class parents who can “afford” a life of relative luxury compared to what was left behind in the developing nation.

This topic is important because there is now a generation of adult adoptees who were adopted transnationally to Australia. In Australia in the 1980s, it was the government advice at the time to allow the adoptee to assimilate into Australian culture and “try to forget” about their birth culture and identity. The writer will discuss the importance of recognizing the birth culture, identity and language in establishing one’s authentic self and how the denial of this is a breach of adoptees’ human rights. The writer will also discuss how adoption is now seen as a commercial transaction and how there is little thought given to the experience of the adoptee or the first family from whom the adoptee biologically came.

International Adoption is often painted as creating families from “poor orphans” whose parents are deceased and these “poor orphans” are allegedly destined to

spend their lives in orphanages without the love, care and attention of a family environment. The reality is that most children living in orphanages have at least some extended family members who are alive. One may never know if the extended family members are willing and able to take care of their relatives but it warrants further investigation by social workers handling the potential intercountry adoption. Often it is the desperation caused by poverty which drives parents to seek basic human needs; i.e. food, health and education opportunities for their children and thus believe that by placing them in an orphanage where they receive three meals a day, basic health checks and basic education it is better than nothing. The writer will discuss the rights of children with respect to adoption, specifically international transracial intercountry adoption. The writer will discuss why the issue of intercountry adoption is important under the specific headings listed below,

- ***How are human needs defined and argued within this issue?***
- ***Is the "need" for a particular population or can it be justified within a particular historical context,***
- ***Which human rights are considered relevant to this particular issue?***
- ***Has this been justified under a specific convention and how has this issue been perceived and debated within your specific profession?***
- ***Has your specific profession undertaken any action with regards to this issue?***

Quiroz, (2008) states that;

“Because adoption is not a random process of family building but rather a purposive endeavor that involves the multiple dynamics of race, class, gender, sexual

orientation and disability, it is important to recognize how trends in transnational adoption intersects with shifting racial structure.”

The issue of intercountry adoption is important because fundamentally children have the right to grow up as part of their family and extended family groups, enjoy a safe and happy childhood. Through education and higher learning children become global citizens who understand how and why the world works, to become active participants in the global environment which impacts their futures. The writer acknowledges that in an ideal world this may be true, yet today’s reality is far more complex and challenging than one could ever imagine. Ongoing civil and geopolitical conflicts directly impact on the lives of families worldwide by creating unstable environments in which children and their families cannot live in safety. This leads to family and community breakdowns. Then when families are separated and put into situations where there is no food security, education or employment opportunities, dire circumstances combine to drive the desperation of families. In the end, relinquishing their children to orphanages and the potential of intercountry adoption is seen as a “reasonable option”. Yet it is the children, society’s most vulnerable, who are left separated and disconnected from their families, culture and language when the focus is on surviving rather than living.

As human rights social workers, the profession as a whole should look at the root causes of poverty. For example lack of women’s reproductive rights, education, employment opportunities, climate change, civil wars and the effects of colonisation. As human rights social workers, addressing these structural inequalities should be at the core of our work and thus preventing children from

growing up separated from their family without their cultural, language and community bonds. This essay will focus on the rights of a child to have a family, community and cultural connection to their place of birth. Their human rights are denied this when intercountry adoption takes place and they are uprooted from their homeland and taken to another country and placed within a family, society and culture that is not their own. Apart from the obvious physical differences that sets them apart from their adoptive family, society tells them that they must be grateful and thankful for having been adopted. Society tells them that they should assimilate into the dominant culture and forget about their own. Society indicates that “you are not one of us”, because they look different from the majority of the white middle class neighborhoods that adoptees are raised in.

- ***How are human needs defined and argued within this issue?***

Human needs are defined by asking the question does a child have the right to belong to his/her family, kin group, language group and country of birth. Yes they do. Does the child have the right to education, adequate food, safety and shelter by way of in country laws and social programs? Yes they do. Do these rights supersede the rights of an adoptive family that may have a certain level of wealth and material possessions who live in a western democracy with western values? No they don't, a human rights social worker would argue.

In a 2007 report for the Evan B. Donaldson Adoption Institute, Madelyn Freundlich, author and Policy Director for Children's Rights, Inc. wrote that “prohibiting adopted people from getting their personal information raises significant civil rights concerns and potentially serious, negative consequences for their physical and mental health.”

One must ask what is needed for the adoptee to live an authentic life. It is not just about having basic needs met like food, healthcare, education but larger and deeper needs like a connection to family, language and culture that is one's own.

When a child is adopted their past is forgotten according to the legal documentation that occurs. There is a name change on the birth certificate, the adopted parents become the birth parents. There is a denial of their birth records, any identifying information, any family, language or cultural connection. Adoptees' human rights are continuing to be denied.

NewMatilda.com states that "the truth is that no-one has the right to a child and in particular no-one has the right to someone else's child. Children are not commodities to be bartered nor possessions with which to complete the perfect home. Other people's children are real people, not just "cures" for infertility."

- ***Is the "need" for a particular population or can it be justified within a particular historical context?***

The majority of intercountry adoptions occur with "poor" children in families from the developing world being given to "rich families", predominately white middle to upper class families who have the wealth, status and financial capabilities to provide all the material possessions a child could want for. What is missing is the connection to language, culture, identity, family and the society in which their first family was born. Walton, J. (2012) argues that

“Adoption is a lived experience that does not simply exist in the past or in adoption files”

Adoption is a billion dollar industry that preys on vulnerable women. Society tells them that because they are pregnant and not “married” that their illegitimate children would be better off without them. Society has told these mothers lies for hundreds of years to perpetuate the myth that families are made with a man and a wife who have material possessions, status and class whereas the birth families do not. Mothers were told to forget about their children and get on with their lives, children were told that their mothers didn’t want them or could not take care of them. Birth mothers have now spoken about how they were coerced and pressured into relinquishing their children by social workers and their families.

While the need for adoptees to be given an opportunity to be raised within their families is great there is also a dual need to recognize the experience and needs of birth parents who live with the shame, guilt and worry that came with relinquishing their child.

One of the problems with the imagery of the defenseless orphan needing a (Western) rescuer is that it implies that the ultimate form of ‘rescue’ is not to give aid to support a child in its own country and culture, but to pluck it from this existence in order to give it access to the ‘privileges’ of the first world.



- ***Which human rights are considered relevant to this particular issue?***

The right to self-determination is considered relevant to intercountry adoption because current practice does not give a voice to the children who are “available” for adoption. In (Cantwell’s 2011, p.6) Issues paper titled “Adoption and Children: A Human Rights Perspective, he describes

“Adoption, indeed, can be seen as involving a map, in microcosm, of a child’s human rights: it raises the issues of identity, family support and assistance for children without parental care, access to basic services, and protection from exploitation and maltreatment, without forgetting the child’s right for his or her opinion to be taken into account – and the underlying principle that the child’s best interests must be the paramount consideration in coming to adoption decisions.”

In researching for this topic the myth that is being constantly bandied about is that there are 147 million orphans worldwide. Yet there are no mention that the children in question have been asked if they have any family members who would be willing to take care of them or if leaving their country of origin, their language and culture and understanding the life-long consequences of this decision has on their emotional, social and mental well-being.

Ife (2012, p.82.) eloquently states “a human rights approach to social work requires that the client, especially a vulnerable and powerless client such as a child, must have maximum input into any decisions regarding her/his future, and social workers

are therefore required to make maximum effort to facilitate such input, through whatever form of communication is available to the person concerned.”

In Ife (2012, p.320) article 16 subsection 3 in The Universal Declaration of Human Rights it states “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.” More specifically in relation to mothers and their children article 25 subsection 2 “Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

Joy Lieberthal Rho, a Korean adoptee and social worker with 15 years’ experience in the adoption field suggests in a Time Parent article (Valby, n.d.) “There is nothing simple about adoption. If we accept that understanding adoption, race and identity is on a developmental continuum over an adoptee’s entire lifetime, then we see that an adoptee’s work is never done but evolving.”

- ***Has this been justified under a specific convention?***

The two major international conventions relating to international adoption are The United Nations Convention on the Rights of a Child and The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption (Hague Adoption Convention) is an international agreement to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child.

(<https://travel.state.gov/content/adoptionsabroad/en/hague-convention.html>)

### HSSW413 Human Rights and Social Justice

The United Nations Convention on the Rights of the Child (CRC) states in article 7 subsection, (UNICEF factsheet, n.d.)

“The child shall be registered immediately after birth and shall have the right to a name, the right to acquire a nationality and as far possible, the right to know and be cared for by his or her parents.”

With respect to intercountry adoption in this article it is imperative to note that it states the right to acquire a nationality and to know and be cared for by their parents. Adoptees when adopted transnationally are given a new nationality and their birth certificates are altered to allow the adoptive parents to replace their birth parents on the legal documentation that is a birth certificate. The birth certificate is the foundation in which one’s identity is formed and the denial of the birth name, birth parents and birth nationality is a breach of an adoptees human rights.

In article 9 paragraph 3 it states

“States parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.”

In regards to transracial adoptees the simple fact of geographical distance prevents the ability to maintain personal relations and direct contact with both parents on a regular basis. Growing up in an environment and society that is not your own adoptees face additional pressures of not knowing their roots, their mother tongue

### HSSW413 Human Rights and Social Justice

and their cultural identity. To not know who your parents are and where you came from is a heavy burden for adoptees to carry with them on their life's journey.

Article 20 states that

“A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. In Paragraph 3 it goes on to state that, when considering solutions due regard shall be paid to the desirability of continuing in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.”

Article 20 implies that adoptees should have the first option of staying within their home country and to be brought up in a localized setting. This would enable their rights to be upheld instead of being denied. Article 21 goes into specific detail about the system of adoption ensuring that the best interests of the child shall be the paramount consideration.

- The right to belong to a family
- The right to one's own cultural identity including language, food, religious celebrations, history.

Intercountry adoption should be the last option when all other possible avenues have been exhausted. Adoptees have the right to know their history, language and cultural background.

These human rights conventions were designed to uphold the protection of children's rights in an international context. While not legally binding States have enshrined these principles into their domestic legislation.

- ***How has this issue been perceived and debated within your specific profession?***

Social workers have argued about the existence of attachment theory and the age at which a child is adopted, reporting that the younger the child the easier it is to attach to prospective parents, contrary to older adoptees and the history of institutionalised behaviour, and the delay in finding a family.

Riben argues that "Adoption is driven by money and a need to maintain social class divides. Denying a group of people the same rights as others based not on their behaviour but because of their birth status, is clearly a case of discrimination."

(Riben, 1988, p.5, as cited in Sweely, 1988.)

Social workers in the past have been the professionals that have worked closely with all three parties in the adoption triad: birth mothers, adoptees and adoptive parents. Social workers have been the people to influence birth mothers to give the children up for adoption to "preserve" the women's dignity because having a child out of wedlock was seen by society at the time as something to be feared (up until the late 70's and 80's in Australia, with the introduction of the single mothers' benefit) and the attitude at the time that there was something "morally" wrong with single women who could not provide materially and financially for their children.

Even today the “child protection model” in State-wide policy continues to separate families instead of preserving them perpetuates the ongoing discrimination of minority groups especially Aboriginal and Torres Strait Islander families and communities.

- ***Has your specific profession undertaken any action with regards to this issue?***

Mather (2001) suggests that “Today’s dilemmas in adoption practice include identifying circumstances that justify permanently removing children from their birth parents, finding permanent families for very traumatised children, resolving policy dilemmas around transracial placements and, ensuring intercountry adoption is carried out in the best interests of the child.”

Therefore modern adoption practices should be open and transparent and adopted child should have as much contact as they want with their birth families and be told the truth about why their birth family cannot raise them. This approach to “open adoptions will lead the way in assisting adoptees with understanding their roots and where they came from. The simple task of filling out any type of personal history documentation would not be met with a constant reminder of the unknown.

Adoptees’ mental health and emotional well- being will be at the forefront of any future policy direction.

In conclusion the rights of the now adult intercountry adoptee’s need to be reflected in the updating of the current international discourse. While the current United Nations conventions and the respective national laws lay the foundations for the treatment of adoptees when they are children, there is a distinct lack of research

**HSSW413 Human Rights and Social Justice**

literature that gives now adult adoptees a voice. In order to fully continue to support the human rights of adult adoptees, the aforementioned lack of research needs to be addressed.

References

Ife, J. (2012). Human Rights and Social Work. *Towards rights-based practice*.

(Third Edition) Melbourne Australia: Cambridge University Press.

Mather, M. (2001). Adoption: The Opportunity To Give A Child A Second Chance Deserves Health And Social Support. *BMJ: British Medical Journal*, 322(7302), 1556-1557. Retrieved from <http://www.istor.org/stable/25467220>

*These Angels Aren't Telling the Whole Story* (2008)

Retrieved on 25 May 2017 from

<http://www.newmatilda.com.au>

Murphy, K., Pinto, S & Cuthbert, D. (2010). 'These infants are future Australians': making the nation through intercountry adoption. *Journal of Australian studies*, , 2010, Vol.34 (2), p.141-161 doi:

<http://dx.doi.org.ezproxy.une.edu.au/10.1080/14443051003721171>

Quiroz, P. A. (2008). Transnational adoption: Reflections of the "diaper diaspora". *The International Journal of Sociology and Social Policy*, 28(11), 440-457.

doi:<http://dx.doi.org/10.1108/01443330810915170>



Sweely, J. (1988) Class and Discrimination in the Denial of Adoptees Equal Rights in *Adoption: The Case for Open Records, a Source Book for Political Action*. University Press of America, Inc., Waltham, MA. 1988. in Press.

Walton, J. (2012). Supporting the interests of intercountry adoptees beyond childhood: Access to adoption information and identity. *Social Policy and Society*, 11(3), 443-454. doi:<http://dx.doi.org/10.1017/S1474746412000115>

UNICEF (n.d.) Factsheet: A summary of the rights under the Convention on the Rights of the Child.

Retrieved from: [https://www.unicef.org/crc/files/Rights\\_overview.pdf](https://www.unicef.org/crc/files/Rights_overview.pdf)