
Politics of International and Domestic Adoption in China

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This article analyzes why the Chinese government turned to international adoption in the 1990s as a means to deal with increasing numbers of abandoned children in Chinese orphanages. Although many people involved in international adoption assume that Chinese families are unwilling to adopt the kinds of children who fill most Chinese orphanages, primarily abandoned girls, research indicates that many families in China are willing to adopt abandoned children, including girls. Yet legal requirements that adopters be over 35 and childless severely limited the number of families who could legally adopt children in the 1990s. While this did not prevent unofficial adoption in violation of the restrictions, it did keep adopters away from government orphanages, thus increasing the burden on those institutions. Restrictions on adoption are the result of birth planning efforts to prevent adoption from being used as a loophole whereby birth parents adopt out daughters in order to be able to try again for a son. The result of this policy has been to increase abandonment while decreasing the number of legally eligible adoptive families in China. International adoption has helped enlarge the pool of potential adopters without disturbing birth planning priorities. It has also helped provide needed funds for improving conditions in state orphanages. Although legal changes in 1999 eased restrictions on the adoption of abandoned children living in orphanages, a number of factors have limited actual change, while restrictions on adoptions outside of orphanages have been largely maintained. Birth planning authorities remain wary of liberalizing domestic adoption, and a decade of international adoption has institutionalized powerful interests that orient adoption from orphanages toward the outside rather than inside China. Nonetheless, China is slowly moving toward an adoption policy more in line with the Hague Convention's injunction to prioritize domestic adoption over international placement, turning to international adoption only when it is impossible to find domestic adoptive families.

The relationship between international adoption and domestic adoption in sending-countries has been a central concern in international conventions that seek to protect children's interests and to regulate international adoption. The 1989 *United Nations Convention on the Rights of the Child* and the 1993 *Hague Conference's Convention on Protection of Children and Co-operation in Respect to Intercountry Adoption* argue that an ethical adoption pol-

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icy should privilege domestic adoption over international adoption whenever this is feasible within a reasonable period of time. Moving children across borders, which separates them from their country and culture of birth, is viewed as a last resort for adoptive placement, preferable to long-term in-country institutional care but second choice to domestic adoption. Scholars such as Barbara Yngvesson (2000) and Claudia Fonseca (2001) have pointed out that some features of the Hague Convention and other international legal codes in fact mitigate against this prescription by valorizing a narrow definition of adoption and postulating an ideal adoptive family that in some cases (e.g., Brazil) leads social workers and lawyers to overlook local adopters and traditional forms of adoption in favor of international adopters. The latter not only offer wealthier homes than domestic placement would but also a "stronger" form of adoption that places children permanently and exclusively in a nuclear family, which thereafter has sole legal custody, rights, and responsibility for the child.

Nonetheless it is commonly understood that many, if not all, sending countries participate in international adoption primarily because some combination of domestic, cultural, and economic factors make it difficult to find enough homes for homeless children inside their country of birth. In such circumstances, institutional care may be the only alternative to international adoption.

South Korea is seen as a prime example of this pattern. Tens of thousands of Korean children have been placed abroad in adoptive families rather than being raised in Korean orphanages or temporary foster care arrangements. Although annual numbers of children adopted from Korea declined in the 1980s and 1990s, over the past 50 years South Korea has been the largest single supplier of children to adoptive parents in the United States and elsewhere. Poverty alone cannot explain the need to seek adoptive families abroad. While international adoption from Korea began in the midst of the devastation created by the Korean War, it continued well beyond the Korean economic recovery and the subsequent "economic miracle," during which Korea witnessed some of the highest economic growth rates in the world. Now, at the beginning of the 21st century, South Korea can no longer be considered a poor country; yet, it still sends between 1,500 and 2,000 children annually to the United States alone. Despite political stability and increasing wealth, it is argued that the continuing grip of Confucianism, with its heavy emphasis on maintaining bloodlines, along with a strong preference for sons, has made it very difficult to promote domestic adoption in Korea as a substitute for international adoption, despite the South Korean government's efforts to do so over the past 15 to 20 years.

China, which surpassed Korea as a supplier of children to the United States after 1994, is often presumed to be in the same

situation as Korea—too many homeless children, too few domestic adoptive homes. China, after all, is not only poorer than South Korea but, more importantly, it is the birthplace of Confucius and the patriarchal family values that create fierce son preference and a devotion to male bloodlines as the central organizing principle of kinship and community. Thus it is presumed that the Chinese government, like the Korean government, had to turn to international adoption in the 1990s to find more adoptive homes for the growing numbers of predominantly female foundlings living in overcrowded Chinese orphanages.

As the Chinese-born head of one of the largest U.S. adoption agencies facilitating international adoptions from China to the United States told a reporter in 1999, “The concept (of adoption) hardly exists in Chinese culture. Nobody knows about it.” He goes on to say that “adoption has a long tradition in the U.S. To a Chinese if a child is not of his flesh and blood, he may not love the child as much as he loves his own children. Americans don’t feel that way (Chiu 1999).” Thus it is argued that Chinese attitudes and culture make it harder for abandoned Chinese children to find loving adoptive homes in China than in the United States, where traditions presumably create a greater openness to adoption. As the above article concluded from the interview, “Every city in the mainland has a social welfare home which shelters abandoned children. But few mainlanders consider adoption.”

Similarly, an article in the *Christian Science Monitor* on the improving conditions in Chinese orphanages (Platt 2000) quoted a U.S. official involved in adoption: “Would-be Chinese parents are beginning to adopt more and more, but almost all of the adoptions are of blood relatives. . . . Traditionally, Chinese have almost never adopted complete strangers.” In the same article, China scholar Anne Thurston explained that, in Chinese society, abandoned children are “outcasts.” “A child deserted by its family has no identity in China.”

Such portrayals of adoption in China are rarely questioned by those involved in international adoption. As I launched a project in the mid-1990s to investigate contemporary adoption practices in China (Johnson et al. 1998), even some of my Chinese colleagues assumed that we would find domestic adoption to be rare today, confined largely to the adoption of relatives’ children or to the occasional adoption of boys. In addition to cultural preferences and attitudes that are presumed to limit adoption as it is understood today, the most common traditional form of adoption of infant girls was made illegal by the national government in 1950. This form of adoption was known as taking a *tongyangxi*, or a “foster daughter-in-law,” whom the adoptive parents would raise to become the future wife of their son. If this practice was largely stamped out, as appears to be the case, were

there any other common adoption practices today that involved girls? If so, were people willing to adopt the children of strangers, such as abandoned children; or were the assumptions about contemporary adoption practices articulated in the quotes above correct—that adoption today was rare and involved primarily close relatives or boys; in other words, that people generally shunned the adoption of strangers' abandoned children, especially girls?

Research Findings on Contemporary Adoption

Prior to our research on adoption conducted in the mid-to-late 1990s, little research had been done on Chinese adoption practices after 1949. However, a demographic study in 1990 based on sample census data suggested that "informal adoptions" were numerous and increasing in the 1980s (Johansson & Nygren 1991), although it was unclear what "informal adoptions" involved. Furthermore, there was evidence from this study and others that adoption may increasingly involve girls more than boys (Greenhalgh & Li 1995). Nevertheless, the nature and purpose of adoptions—whether permanent or temporary, whether the practice generally involved arrangements between close relatives and friends, or perhaps for the purpose of hiding children from local birth-planning authorities—was unknown.

Our study of adoption suggested answers to these questions.¹ What we learned from information gathered from nearly 800 adoptive families between 1996 and 1999 was that adoption, viewed as a permanent and complete transfer of children into the adoptive family, was common in many rural areas, that it involved girls far more than boys, and that only a minority involved relatives or close friends. It is notable that the form of adoption described by these families was a relatively "strong" one, in line with the form of adoption privileged by the Hague Convention and other contemporary international legal codes. The largest single category of adopted children in our sample was aban-

¹ Between late 1995 and 1999, information was gathered from over 1,000 families through questionnaires administered to families who had adopted children (*N* 771) and to families who had abandoned children (*N* 247). In-depth interviews were conducted with about 10% of the adoptive families. Approximately 85% of the abandoning families and 75% of the adoptive families were from one central province in China, located in more than 20 counties throughout the province. The rest of the sample came from scattered locations in north, central, and south China. More than 95% of the abandoning families and about 85% of the adoptive families lived in rural villages or towns. The families were located using informal networks and through word-of-mouth. The adoptions spanned the period from the 1950s to the present, but most (over 90%) occurred in the 1980s and 1990s. All but ten of the 247 cases of abandonment occurred in the 1980s and 1990s.

Information on adoption and abandonment was also gathered from welfare centers and interviews with local officials, including police, hospital staff, county, and township governments, and civil affairs departments. In addition, materials were collected from government publications, newspapers, magazines, and journals.

doned children (56% of the whole sample), the vast majority of whom were girls (87%). In other words, many families were willing to adopt the abandoned female children of strangers.

The Traditional Basis of Contemporary Adoption Practices: Minglingzi

The historical and anthropological literature on the Chinese family indicates that adoption has been integral to the construction of kinship in China for a very long time. In contrast to the popular beliefs expressed above, James Lee and Wang Feng (1999:8–9), in their study of fertility and kinship in China, argue that the frequent use of adoption is one of the distinctive features of the Chinese demographic system, in contrast, for instance, to that of Europe. To be sure, adoption in China was legally constrained and narrowly prescribed in the formal discourse of the state. Legal codes and lineage rules often stipulated that adoption must take place within bloodlines and should only be done to obtain a patrilineal male heir of the same surname. Yet, as is often the case, actual practice was frequently at variance with formal prescriptions and legal codes. Adoptive practice, supported by other culturally embedded ideas, often involved adoption outside of bloodlines. Historian Ann Waltner, in her study of Ming and Qing dynasty adoption practices, argues that there was a popular adoption ideology that competed with the dominant Confucian-based ideology and legal codes that restricted adoption to bloodlines. This competing ideology was encoded in the term *minglingzi*, a term commonly used to refer to an adopted person (Waltner 1990:144). The term literally means “mulberry insect children.” The use of the term to refer to adopted children, in particular to children adopted outside the circle of patrilineal relatives, derived from the belief that the wasp took the young of the mulberry insect and transformed them into young wasps, making them its “own children.”² According to folk belief, the wasp raps and taps outside its nest, in which it has put the mulberry insects’ young, and prays, “Be like me, be like me.” After a period, young wasps emerge. Thus, one who is adopted is known as a *minglingzi*, implying that they are transformed into the likeness of the parents who raise them. While this metaphor reinforces the importance of “likeness” in a parent-child relationship, this likeness does not originate in a biological connection, as is the case, for instance, in Anglo-American metaphors of kinship and blood. The *minglingzi* metaphor is remarkable in its near total denial of the significance of biological heredity in shaping the child, emphasizing the wholesale transformation of

² This term is also discussed by Arthur Wolf & Chieh-shan Huang (1980:110) who found it used in Taiwan. The folk story of the wasp is recounted in an essay by the well-known writer Lu Xun, “Idle Thoughts at the End of Spring (1957).”

the biological offspring of one set of parents into the likeness of the adoptive parents by virtue of being raised by them. Almost no semblance of biological origin remains. Confucian emphasis on upbringing and cultivation as the key to character provides further support for ties built on nurture and social relationships rather than on biology and heredity.

Not only can one find sanctions in China's popular ideology for adoption and for adopting "outside" one's bloodlines; but also, in practice, anthropologists, observing Chinese customs in the 19th and 20th centuries, have often found a preference for adopting strangers rather than relatives. Adopting the children of strangers, perhaps through intermediaries, helped protect adoptive ties from future interference from birth parents or other relatives and made it less likely that the child would ever try to return to his or her birth family (Watson 1975:298-99; Wolf & Huang 1980:209-11).

Gender and Adoption

Similarly, while most formal adoptions gleaned from historical documents and court records involved the adoption of males for the purpose of providing an heir—the only purpose for adoption that was sanctioned by law—popular adoption practices often involved females (Wolf & Huang 1980). As Waltner observes, female adoptions were not likely to be part of the historical record, either in genealogies or court records, because, within the prevailing patrilineal kinship system, their adoption did not bear on lineage matters or involve issues of property and inheritance (1990:122). At the same time, girls were more likely than boys to be available for adoption because they were more expendable from the point of view of the birth families. Furthermore, the ambiguous position of females, especially children, in the formal kinship structure and bloodlines made girls more readily exchangeable and hence more "adoptable" as daughters regardless of whether they came from sources inside or outside bloodlines. Our research suggests that this practice may continue to make the adoption of daughters of unknown parentage a relatively easy and acceptable matter for adoptive parents in contemporary China.

Anthropologists studying adoption in pre-Revolutionary China found that the most common form of female adoption was the now-illegal practice of taking a *tongyangxi* (Wolf & Huang 1980). Another tradition resembling adoption that was considered illegal after 1949 involved buying girls as household servants. These girls were not "daughters" but were often treated as household members and, like daughters, had marriages arranged for them by the household head. Childless couples also adopted girls as daughters, many of whom assumed a status simi-

lar to birth daughters. Sometimes this was done in the hope that doing so would "lead in" a son. If the hoped-for son did not materialize, the couple at least had a daughter who might serve as a caretaker and as a possible means to obtain a son-in-law uxorilocally, that is, to find a man who would marry into his wife's family, assuming residence in her father's household, and allow his son to become his father-in-law's heir. Sometimes this uxorilocal arrangement was temporary, but sometimes the son-in-law would assume his father-in-law's surname and become an adopted son. Although this practice was considered a lowly arrangement for a man, and, according to legal codes and formally prescribed norms, should only involve close members of the same patriline, unrelated poor men might be willing to marry in this way for economic reasons.

In some communities in the 19th and early 20th centuries, these various practices were so widespread that the majority of girls were adopted, and few people raised their own birth daughters (Wolf & Huang 1980). In other areas, these practices affected only a small minority. Nevertheless, their existence showed the flexibility of traditional practices and the way in which adoption could be used and manipulated by families as a means to compensate for inadequate outcomes of biological reproduction or to augment family formation. They also provided a traditional precedent for the adoption of girls as well as for the adoption of strangers. Overall, the diversity of customary practice seems to have lent itself to a popular culture of adoption that has survived the decades since 1949 and that has adapted to new circumstances.

Contemporary Adoption Practices: "As if by birth"

In the context of this understanding of China's traditional adoption practice, our research findings about adoption in the 1980s and 1990s are not surprising. Although past customary practice provides the context for understanding contemporary practice, adoption practices and attitudes today are not merely a reflection of tradition. Today's family ideals are different than those of the past, and adoption policies and practices reflect this. Our research confirms that adoption of girls as *tongyangxi* is now rare. Girls are adopted as daughters. Contemporary adoptive parents routinely insist that adopted children have the same status as birth children and are raised and treated "as if born to" the parents. The widespread adoption of girls as daughters is supported by popular ideals of a relatively small but gender-balanced family. While the felt need for at least one son remains prevalent, most people report that their ideal family includes a daughter as well, and that the ideal family is a small one, with one boy and one girl. Although sons are said to be necessary for economic support

in old age and to continue the family line, as only a male heir can do, girls are increasingly valued for the emotional care, loyalty, and closeness that they are expected to provide parents. As has happened elsewhere, it seems that as sons become more economically mobile and independent from parents, close interpersonal and emotional ties with daughters assume greater significance to parents in China (Greenhalgh & Li 1995).

Families that adopted girls often pointed to these particular strengths of daughters. Although childless couples in China usually adopted girls because healthy girls were more readily available for adoption than healthy boys, many insisted that the gender of the child was not important; they just wanted a healthy baby that they could raise "as their own." Some went further by pointing out the particular value of adopting a girl—that daughters are closer, more loving, and more loyal to their parents than are boys. Families with birth sons but no daughters were particularly happy to adopt girls. These parents often commented that a boy and a girl made a complete family and that adopting a daughter fulfilled their desire to realize this complete family. Girls were seen as bringing something special to a family that a son alone could not bring. Thus, while sonless families, in the context of strictly enforced birth-planning policies, might sometimes abandon a higher parity daughter in their quest for a son, daughterless families, also constrained from more births by birth-planning policies, often welcomed the opportunity to adopt abandoned girls as a way to "complete" their families through adoption.

In short, in China today there is a popular culture of adoption that allows for the use of adoption in the construction of the family and the approximation of popularly imagined family ideals. Had this culture of adoption not existed in the 1980s and 1990s, Chinese orphanages would surely have been far more overcrowded and severely stressed than they were. Though many of these adoptive parents suffered fines and penalties for violating the regulations regarding childlessness or the minimum age requirements, they represented a social force that rose in the breach to take care of perhaps hundreds of thousands of abandoned children over the decade, raising them "as if" they were birth children, according to the testimony of most adoptive parents in our sample.

The Policy Context of International Adoption

Given these socially generated patterns of domestic adoption and the existence of a popular culture of adoption, particularly in rural areas, why didn't the Chinese government and local civil affairs authorities vigorously promote domestic adoption as the first and primary means to find homes for the growing numbers

of children in orphanages in the 1990s? The vast majority of Chinese adoptions occur outside of orphanages, but the patterns we found indicate that the domestic ground was fertile to promote more adoption through official channels had the government chosen to do so. In the absence of such efforts, why did it turn to the development of international adoption to help deal with overcrowded orphanages?

In fact, there was some domestic adoption from Chinese orphanages in the 1990s, although not a great deal. Even though precise official statistics are not available for this period, the numbers of domestic adoptions from orphanages certainly exceeded the number of international adoptions at the beginning of the decade. Some orphanages sought to locate more adoptive families through their own networks in order to cope with the overcrowding, but little effort was made on a systemwide basis to find adoptive families within China for the increasing number of orphanage foundlings. At the same time, a new nationwide system was established to facilitate the placement of children through international adoption and to regulate the exchange of documents, foreign currency, and the movement of children across international borders. No such organization exists to facilitate the placement of children in domestic adoption. Thus, while numbers of international adoptions grew rapidly from less than 100 in 1991 to more than 6,000 by the end of the decade,³ domestic adoption from orphanages seemed to grow little, stagnated, or even shrunk in some places during the decade.⁴ In the late 1990s, civil affairs officials reported in interviews that registered domestic adoptions during the 1990s ranged from 6,000 to 8,000 per year, without specifying what percentage of these were from orphanages or welfare institutes.⁵ One can deduce from these low and stable figures for total registered adoptions that domestic adoption from state orphanages could not have exceeded a few thousand per year, perhaps even less. It seems likely that, by the end of the decade, international adoptions were overtaking domestic adoptions from government welfare institutes.

Why did this pattern emerge? Why didn't the government move just as vigorously to promote domestic adoption during this decade? One answer offered by critics of China's human

³ Adoptions to the United States, which make up about 80% of international adoptions from China, grew from 61 in 1991 to 5,053 in 2000, according to U.S. State Department statistics based on adoptee visas issued. Official Chinese statistics reported in the *Civil Affairs Statistical Yearbook 2001* indicate that the total international adoptions were approximately 6,700 in 2000 (*China's Civil Affairs 2001*).

⁴ Interviews with local officials involved with adoption, 1991–2000.

⁵ The total number of adoptions in China is unknown, but it probably exceeds the number of registered adoptions by a great deal. In the late 1980s, demographer Sten Johannsson estimated that there were more than 300,000 unregistered "informal" adoptions per year and that the number was growing steadily throughout the decade.

rights record is that the Chinese government has sought to use children as another export, to make profits and earn foreign exchange for its growing capitalist economy. International adoption brings in U.S. \$3,000 per capita in mandatory orphanage donations and an additional U.S. \$1,000–2,000 in other fees and expenses paid by adoptive parents in China. Yet any reasonable assessment of this allegation in the broad context of the Chinese economy would have to conclude that the amount brought in by international adoption is insignificant overall, and that the desire for foreign exchange earnings cannot explain why international adoption rose. Nonetheless, the orphanage donations have been significant from the perspective of the welfare institutes that reap the lion's share of these funds for funding improvements and daily operations. Hence, international adoption has been a reasonably effective means of bringing funds into the welfare system at a time when it was sorely strapped and barely able to cope with the increasing numbers of children in its care. Many outside observers, including myself, have noted significant improvements in the orphanages that participate in international adoption, including improved physical plant, improved staffing, higher quality medical care, and, in the best orphanages, improved attention to developmental and educational needs.

Yet the utility of international adoption for meeting the welfare system's important needs cannot explain why domestic adoption was not promoted as an additional means to reduce the population in the orphanages, thus reducing the need for funds and allowing more focus on disabled children, who cannot be placed in adoptive families.

There were far more children in Chinese orphanages in the 1990s than the numbers taken by international adoptions. Yet, at the beginning of the 1990s, few Chinese people were aware of the location or even the existence of many orphanages. Some large urban orphanages bore signs over them declaring that they were kindergartens or schools in order to disguise their true purpose. Other orphanages were tucked away in inconspicuous spots and rarely drew any public attention. This situation began to change in the years 1993 to 1994, when some efforts were made to raise donations for orphanages from local populations (Johnson 1996). However, few, if any, efforts were made to promote adoption of orphanage children among the public.

Population Control and Adoption Policy

The reason for this notable absence is related to the way that adoption policy became entangled with, and ultimately subordinated to, the state's top priority population control policies during the 1980s and 1990s. The role of China's "one-child policy" in the generation of abandonment has been fairly clear and well

known.⁶ Less well known but equally clear upon reflection is the way that birth-planning efforts on behalf of the one-child policy quickly expanded into the area of domestic adoption policy and fully took it over at the highest level of national legislation in 1991, when the first adoption law was passed (Johnson et al. 1998).

The 1991 national adoption law, heralded as paving the way for international adoption, simultaneously codified a highly restrictive adoption policy that limited the adoption of foundlings to childless parents over the age of 35. This was hardly a law aimed at finding adoptive homes for abandoned children within China. While there were as many childless couples in China as elsewhere, 35 was an unacceptably advanced age to become a first-time parent according to Chinese social norms and practice, especially in the countryside, where most Chinese lived. Furthermore, by limiting the pool of adoptive parents to those who were childless, a huge pool of potentially interested adoptive parents were summarily eliminated by the law. Clearly, this law was not written with an eye to serving the interests of homeless children in need of families. Instead, the main purpose of codifying these restrictions into law was to provide birth-planning officials with additional regulatory weapons to shore up the one-child policy by eliminating adoption as a potential loophole for those who sought to hide the birth of a child, typically a daughter, in order to try again to have a son over quota.

As a result, adoption policy not only restricted legal adoption to a relatively small pool of older, childless couples but also indirectly contributed to the rising incidence of infant abandonment; birth parents who now found it more difficult to arrange an adoption for an unwanted or over-quota child might be pushed toward outright abandonment of the child instead. Similarly, while customary adoption practices in violation of the law might continue outside the purview of the government, the pool of people able to seek a legal adoption from government orphanages and welfare institutes would be significantly impacted. On the other hand, by opening up to international adoption at the same time, the pool was broadened to include countries where potential adoptive parents tended to be older and where the demand for healthy infants was high. This measure could at least partially compensate for closing down legal avenues of adoption to large numbers of Chinese families at precisely the moment when more families were needed. Opening up to international

⁶ The name "one-child policy" is misleading. While urban areas allow parents to have only one child, most rural areas since the late 1980s allow a second birth if the first is a girl; and some rural areas allow two births, spaced by 4 or 5 years, regardless of the gender of the first child. The term "one-child policy" is used as a short-hand for these more varied but still highly restrictive policies. The Chinese government continues to refer to the policy by this term.

adoption could also help bring needed funds to improve the orphanage care of the increasing numbers of children who would have to grow up in orphanages rather than in adoptive families. While this arrangement failed to serve the best interests of foundlings in orphanage care, it provided financial assistance for caregiving institutions and provided homes for a small-but-growing number of orphanage children. As many as 35,000 children found homes abroad during the last ten years, though many times that number of adoptable children remained behind in the orphanages.⁷ Many of these children have benefited from improved conditions due in part to funding brought in through international adoptions and other associated international agencies, but the tradeoff is hardly a good one for those who have had to spend their childhood in orphanages.

Revisions in the Adoption Law

As a result of some of the contradictions created by the 1991 law, restricting adoption at precisely the moment that more homes were needed for abandoned children, efforts began to mount to revise the law to accommodate more domestic adoptions from orphanages. In the fall of 1998, a revised law was sent to the National People's Congress for approval. The resulting revised law, enacted in 1999, lowered the legal age for adopting parents to 30, and, most importantly, allowed families with children to adopt healthy foundlings.

This revision seemed a major breakthrough in the way adoption law was viewed, orienting it more toward serving the needs of the children rather than those of birth-planning. Yet, the results have been less sweeping than one might have hoped. In fact, birth-planning forces opposed the revisions at various stages along the way (Kwan 1998) and have sought to restrict their scope. When the law was finally approved and the regulations for its implementation were issued, the scope of the revisions had been limited to the adoption of children "being raised in welfare institutions," and—the most significant revision—that those with children could adopt healthy foundlings, was buried deep within the fine print of the law.⁸

⁷ Many children in Chinese orphanages (ranging from 20% to 60% or more, depending on the orphanage) are disabled (Johnson 1993). Although some of these disabilities are minor, are cosmetic, or are correctable (such as prominent birthmarks or scars, cleft lip, and club feet), some are severe and incapacitating (such as congenital brain damage). Children with these disabilities are not considered "adoptable," and most would be unable to find adoptive homes regardless of the adoption policies set by the government.

⁸ English translation of the 1992 and 1999 laws can be found in the appendix of Laura Cecere's, *The Children Can't Wait: China's Emerging Model of Intercountry Adoption* (1999) and on the website of Families with Children from China (www.fwcc.org/ccalaws.htm).

Aside from initial publicity surrounding the passing of the new law, publicity about the new possibilities for legal adoption was local and sporadic. Implementing regulations also stipulated that written approval from birth-planning authorities at various levels were necessary before parents could qualify to adopt a child, certifying that the prospective adoptive parents had never done anything to violate birth-planning policies. In some places this meant that it was very difficult for families with children to adopt from a welfare institute, while in other places orphanages reported that they quickly increased the numbers of domestic adoptions.⁹ The desire of local orphanage authorities and local political relationships seemed to be important in determining the way the law was implemented. Preliminary research on the impact of the 1999 law has also indicated that those who adopted foundlings outside of welfare institutions generally have had a hard time using the new law to register their adoptions and obtain a legal status for their adopted children (*Hefei Evening News* 2000; interviews).

Our sample of adoptive parents included a large number of parents who had adopted abandoned children outside of government channels and without informing the government, either because they were underage or because they had other children; these families would most likely continue to find themselves unable to legalize their adoptions through the revised law. The result is that at least some of these children will remain unregistered, "black children," lacking the papers necessary to gain access to good schools, indeed to any schools beyond the primary level, and perhaps will be deprived of other entitlements.

Birth-planning forces are not the only ones with interests that mitigate against a vigorous application of the revised law and the principle that domestic adoption should be expanded as fully as possible. Numerous vested interests and relationships have grown up around international adoption in the past decade, involving local orphanage and civil affairs officials, central adoption and welfare officials in the ministry of civil affairs, and a host of international adoption agencies and charitable foundations that have become involved in care-giving programs within the Chinese child welfare system. While few could be accused of active efforts to block domestic adoption, many seem to see it as an after-thought, looking instead to the more routinized, and lucrative, sources of international adoption. Foreign agencies and Chinese organizations involved in international adoption are often barely aware of the fertile potential for domestic adoption and have little motivation to actively explore these possibilities. Recall the quotes at the beginning of this article from several officials,

⁹ This discussion about the implementation of the 1999 adoption law draws on observations and interviews conducted in China since June 1999.

scholars, and adoption agency heads. At the extreme end of resistance to the new law there seems to be a few orphanage officials who worry about "the well running dry" should domestic adoption become too popular, thus claiming the healthy infants most desired by international adopters. Some orphanage officials have set the fees for domestic adoption at the same level as those required of international adopters, around 25,000 yuan, the equivalent of U.S. \$3,000. This is a prohibitive amount for any but the very wealthiest of Chinese and will surely keep the numbers of domestic adoptions from such an orphanage at a bare minimum.

Prospects for Change

Nonetheless, this revised law represents a step in the direction that can bring Chinese adoption policy more in line with accepted international adoption principles and the Hague convention. Despite numerous obstacles, the changes have had a positive, even if limited, effect on the rate of legal domestic adoption. Statistics published in the *Civil Affairs Year Book 2001* indicate that the numbers of registered adoptions both inside and outside state welfare institutes increased significantly in 2000. There are no precise published figures for domestic adoption from orphanages or from other avenues in the 1990s. However, as mentioned earlier, total registered adoptions in this period reportedly hovered around 6,000 to 8,000 per year. Civil Affairs statistics indicate that there were over 52,000 registered adoptions during the year 2000 (*China's Civil Affairs 2001*; Gittings 2001). More than 10,700 of these were domestic adoptions from orphanages and welfare institutes, surpassing the 6,700 international adoptions from orphanages and welfare institutes for the same period. Since this was higher than the highest figure for total annual domestic adoptions in previous years, it certainly represented an increase for domestic adoptions from orphanages in a single year. There were also 37,000 registered domestic adoptions of foundlings outside of welfare institutes in 2000. Because the actual number of adoptions of foundlings each year is likely much higher than this figure, and has been for many years, this number does not necessarily indicate that adoptions of foundlings outside of orphanages has increased. It does, however, indicate a significant increase in the number of those adoptions that have been properly registered and have received legal status.

This increase may be related to the way the revised law has affected adoption practices in some areas.¹⁰ It may also result

¹⁰ According to interviews conducted in 2001, in some areas, regulations are now in force allowing those who find abandoned children to legally adopt them directly as long as they report immediately to the police and then register with local civil affairs. In the

partly from increased efforts to legalize the status of "black children" who have, for one reason or another, fallen outside of the "planned population" category and been deprived of proper registration (Greenhalgh 1999). Whatever the reasons, the trend is a positive one. It indicates that various policies and officials in China are beginning to come to grips with the fallout of coercive population policies and the way they have jeopardized the interests of thousands of children, have deprived them of families, and have often left them without the right to a basic legal existence.

Additional efforts to find non-institutional care for abandoned and orphaned children in China can be seen in the development of new foster care systems connected to welfare institutes. These systems have been promoted and funded by a coalition of Chinese welfare officials in the Ministry of Civil Affairs, charitable international donor organizations, and adoption agencies involved in child welfare programs. These foster care programs are a positive development, especially those that accommodate children with special needs, who are unlikely to be adopted.

These programs should not be viewed positively as a substitute for the promotion of permanent domestic adoption, however; yet, there is reason to believe that they are functioning in precisely that way. The arena of foster care does not confront opposition from birth-planning forces as adoption does, for its development is not seen as a threat to birth-planning efforts. Furthermore, the development of foster care is no threat to international adoption. Indeed, international adoption agencies and international adopters prefer to adopt children from foster care rather than orphanage care. Institutional care is widely believed in international adoption circles to create "damaged children" that pose greater risks for adoption. Thus the development of foster care systems dovetails very well with the interests of international adoption.

The fact that international adoption agencies and birth-planning forces may join in supporting foster care programs in China as an alternative to orphanage care is of course no reason to oppose the development of foster care. But it should not be seen as an adequate substitute for the promotion of permanent, legal adoption whenever this is possible.

I have interviewed some foster families who themselves accept this status, though they consider themselves to be adoptive families in every other way. As long as their position as a foster family is secure, it seems a decent tradeoff for the small financial benefits and the legal registration of the child. The identity of

past it was often difficult to adopt and register such children legally, especially if one already had children. Therefore, many adoptive parents did not report foundlings to officials.

the child as her parents' daughter is confused by the foster care status, however. It consigns the child to an orphanage registration and to a sort of halfway-house status that carries negative social implications. Promoting full adoption rather than foster care would in most cases be far better for the child and in some cases would be preferred by the foster parents as well.

Conclusion

These changes may indicate that Chinese adoption policies are finally coming in line with the principles of the Hague convention, but it is still too soon to tell. The implementation of the 1999 adoption law revisions has continued to show the earmarks of birth-planning concerns, and their impact has been dampened in many areas by these concerns. Furthermore, ties to international adoption have been deeply entrenched through central and local ties to international adoption agencies and to international nonprofit charitable foundations, some of which are organized and funded by foreign adoptive parents, who have become widely involved in funding various orphanage and foster care programs. Some local adoption and orphanage officials have grown accustomed to the benefits of international adoption and seem less than eager to promote the domestic adoption of healthy children whom they can place in international adoption instead. Even where there are plenty of children available for both international and domestic adoption, domestic adoption has become an afterthought to some adoption officials.

In short, registered domestic adoption has to fight its way back, not only against the power of the birth-planning establishment but also in the face of vested interests and institutional arrangements that have oriented significant parts of the child welfare system toward international adoption and the international donors that international adoption has generated. As mentioned earlier, while there is a national ministry-level organization, the China Adoption Center, dedicated to supervising, coordinating, and processing international adoptions as smoothly as possible, there is no such organization for the promotion and coordination of domestic adoption. More importantly, there continues to be a general absence of publicity for domestic adoption, though some orphanages pursue their own channels to find adoptive parents. One can hope, however, that the first steps have been made toward opening the doors wider to legal domestic adoption of foundlings, whether they are living inside state welfare institutions or not. This would surely decrease the "hidden" population of children in China and enhance the rights of all China's children to a family and home in their country of birth.

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