Determination of Child's Welfare by Adoption Agencies

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1. Introduction

The removal of a child from his or her parents, whether by parental agreement or to safeguard the child’s welfare is considered draconian in family law. It is important that a plan is made to place the child in a permanent environment be it reunification with birth parents, placement with relatives, placement with foster care or an adoption. Placement at an institution must be perceived as a temporary measure until a permanent plan is structured by the child’s social worker. The UK and the USA continues to push adoption as the placement choice for children in its public care system who cannot return home, and as a policy matter, promotes this as in the welfare of the children. Japan on the other hand appears to be resistant towards making adoption as a permanent care plan.

This paper analyses whether the welfare of the child is considered by adoption agencies in a placement decision making. Some of the questions considered with regard to the child’s welfare are as follows: how the welfare of the child is defined? Did the decision maker take the welfare of the child into account? Were the child’s views taken into account (if the child is capable of forming a view)? Were the parents’ views taken into account? Was the welfare of the child made a primary consideration or the paramount consideration in a placement decision making? Is the placement decision making solely based on the child’s welfare or influenced by other factors or circumstances?

For the purpose of this paper, policies and practices on adoption of a number of public and private adoption agencies have been studied. Social workers as well as Directors serving at these agencies have been interviewed in Osaka and London to find out the factors considered in determining the child’s welfare in an alternative placement decision-making. I had also visited a few private child institutions in Osaka to observe their role in placing “looked after” children in a permanent family-based placement. I had participated in foster care conferences held by Child Guidance Centers (CGCs) in Osaka and international adoption conferences in Tokyo, where I had the opportunities to converse with academics, researchers, social workers involved in child protection and foster parents and adoptive parents about their problems and expectation for social services. I also had the privilege to interview the Ministry of Health, Labour and Welfare of Japan on its policy for children requiring protection.

Before we proceed further, it is necessary to note the common principles and the vital differences between the UK and Japan in the regulation of adoption arrangements and adoption agencies. The common principles governing adoption in both countries is that the consent of birth parents to adoption must be obtained by the adoption agency or dispensed with by the court in accordance with law. The major differences in both countries are:

1. The UK regards adoption as a public care measure to especially to reduce the number of children in institutional care whereas in Japan it remains a private transaction between
birth parents and adoptive parents or sometimes arranged through private agencies but very seldom used by the CGCs as a care plan for children “drifting” at the institution.

2. All adoption decisions (including assessment of step parent adoption) must be made by local authority social services department and not by a voluntary agency in the UK but in Japan, both the public authorities and private agencies may make their own assessment on the children under their care or protection.

3. In the UK adoption can only be handled by registered adoption agencies with the exception of relative adoption (step parent adoption, extended family adoption) whereas in Japan independent adoption is practiced widely in which lawyers or doctors often act as intermediary. Furthermore, registration of adoption agencies is a mere formality that falls under the jurisdiction of local government municipalities.

4. The existence of adoption panel at each local authority which is responsible to make recommendation on (a) whether adoption is in the best interest of the child; and (b) whether a prospective adopter is suitable to be an adoptive parent; and (a) whether the prospective adopter is a suitable adoptive parent for the child concerned. There is no such panel in Japan although in recent years expert opinion is sought in relevant cases.

2. Adoption Agencies

Adoption agencies are public authorities and private institutions handling placement of children requiring protection of the State. Public agencies are usually supported by public funding, are run by States, and generally assist in the adoption of children in the foster care system. Private agencies are usually licensed by the State but run privately and can assist in most types of adoption. These agencies decide the adoptability of a child requiring protection and make necessary placement with the adoptive parents before seeking an adoption order. Adoption agencies are generally governed by strict rules and regulation as it involves care and protection of vulnerable children. Regulations are also deemed necessary to prevent profit making and trafficking in children. Adoption services are usually provided by public agencies acting on behalf of the State and by private organizations that is concern about solving social problems. To quote Richards 1 “Voluntary agencies grow out of private commitment to solving a problem. Statutory agencies grow out of public recognition of a problem.”

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1 Richards, M., Adoption: Guide and Practice Series, Family Law, Jordan & Sons Ltd., 1989, p 52.
2.1 International Instrument

International Instruments such as the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption, 1993 (Hague Convention) and the Convention on the Right of the Child, 1989 (CRC) provides essential rules to regulate adoption both at national and international levels. Article 21 of the CRC provides that States Parties that recognise and/or permit the system of adoption shall ensure that the “best interests” of the child shall be the “paramount consideration” and they shall:

Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary.

Article 3(3) of the CRC states that member States shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision. In December 2009 the United Nations General Assembly has adopted Guidelines for Alternative Care of Children with the main aim of enhancing the implementation of the Convention on the Rights of the Child and relevant provisions of other international instruments regarding the protection and well-being of children who are deprived of parental care or who are at risk of being so.

The major difference between the Hague Convention and the CRC is that the former requires that each country designate a national authority to oversee international adoption. In many countries, such organizations already exist, for example, the China Center for Adoption Affairs has been supervising Chinese adoptions for more than a decade and in the United States, the Department of State is the supervising agency. Each member country is required to designate entities to review and accredit all adoption service providers as to their ethical practices, financial stability, and expertise. In addition to adoption agencies, attorneys, facilitators, and social workers that are involved with child placements will need to be accredited. The UK has ratified and complied with The Hague Convention by establishing the Central Authority for England and Wales but Japan is yet to ratify the same and to form accredited body to regulate adoption. In view of that this chapter studies how the adoption agencies in Japan function to promote the welfare of a child when alternative placement becomes necessary for a child requiring protection.
2.2 The UK Agencies’ Practices

Until 1982, adoption arrangements were made directly between birth parents and adoptive parents or with the involvement of private individuals like family members, friends, nurses or doctors. The Adoption and Children Act, 1976 establishes new legal processes for placing a child for adoption through an adoption agency, which means for adoptions to be lawful it must go through an adoption agency. Private adoption is no longer recognized with an exception of adoption by step-parent, extended family and relatives. Authorities through which children are offered for adoption are local authorities or voluntary agencies; this means either a local authority or a registered adoption agency but it does not include adoption agencies abroad.

Domestic adoption in England is currently governed by the Adoption and Children Act, 2002 which must be read in the context of the Government’s policy that adoption should be used as a means of finding a permanent home for children who might otherwise ‘drift’ through care provided by the State. This reflects a general trend across Europe and beyond towards seeing adoption as a mechanism benefiting children rather than childless couples. But, some assert that the UK Government’s policy raised concerns about how the interests of birth parents could be safeguarded under the 2002 Act.

2.2.1 Public Agencies (Local Authority Agencies)

Public Agencies also known as statutory agencies are organisations that are set up by national or local government. A local authority that establishes adoption services within the ambit of Section 1 of the Adoption Act 1976 is referred to as adoption agency. Section 1(4) of the 1976 Act provides:

(4) The services maintained by local authorities under subsection (1) may be collectively referred to as "the Adoption Service ", and a local authority or approved adoption society may be referred to as an adoption agency.

Section 2(1) of the latest Adoption and Children Act 2002 is in pari materia with Section 1(4) of the 1976 Act. It says:
The services maintained by local authorities under section 3(1) may be collectively referred to as “the Adoption Service”, and a local authority or registered adoption society may be referred to as an adoption agency

Under the Children Act 1989, the first duty of public agencies, where children cannot live with their birth parents, is to seek a home for them with their extended family. Finding a safe and caring new home for children with their wider family or friends allows them to keep important attachments and connections in their lives, and is therefore the preferred choice where it is possible and consistent with the child’s welfare. Adoption agencies are required to consider (1) whether adoption serves the welfare of the child; (2) suitability of an adopter and (3) provide counseling services among others to explain the legal implications and procedure
and provide written information about the adoption. The Adoption Agencies Regulations 1983 has detail provisions for the management of adoptions. Every adoption agency is required set up an Adoption Panel by Regulation 3(1) of the Adoption Agencies Regulations, 2005, whose main statutory function is to consider and recommend to the agency:

1. whether adoption is in the best interests of a child and if so, whether any application should be made to free the child for adoption;
2. whether a prospective adoptive parent is suitable to be adoptive parent; and
3. whether a particular adoptive parent would be suitable adoptive parent for a particular child.

Adoption Guidance: Adoption and Children Act 2002 is a statutory guidance that explains the content of the different sets of regulations made under the Adoption and Children Act 2002 and the duties and responsibilities that the regulations place on adoption agencies.

London Borough of Newham and Central Bedfordshire County Council are the public authority agencies interviewed on their policies and practices on adoption services as part of the case study conducted in England.

(i) London Borough of Newham

London Borough of Newham is situated in London. Its child (0-19) population is 81,652 in 2010 with the main race being Black African consisting of 16,553 children followed by Bangladeshi consisting of 13,601 children, White consisting of 12,766 children and so on. As at March 2010 there were 3,938 children in need in Newham. As of October 2010 there were 516 children who are looked after and the total number of those children being adopted, fostered and institutionalised in 2010 was 468. The number of registered foster carers including kinship carers is 90. There is at present 211 social workers, 14 agency workers and 46 vacancies. It has multi-lingual leaflets and offers telephone services in many languages because of its multi-racial community.

The social workers interviewed at the London Borough of Newham (Newham Council) said that the main policy of the Newham Council is to deliver high quality placements for Newham’s looked after children and its vision is to ensure that the child is at the centre of the service and of all decision making processes. This service is delivered by recognising and being sensitive to the very wide diversity of its children’s heritage. The key principle of the Newham Council in working with all elements of adoption is that the child’s needs shall remain paramount. Among its secondary principles are:

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- Looked after children will be consulted regularly and all aspects of their placement and their wishes and feelings taken into consideration.
- All work will be undertaken as far as possible in partnership with looked after children, their parents, adopters, social workers and other relevant departments and agencies.
- The service will advocate for looked after children to ensure that they have access to their own social worker and any specialist services that they need.
- The need for a child for a permanent and secure home will take absolute priority. In making adoptive placements, consideration will be given to needs arising out of race, ethnicity, religion, disability, language and sexuality but the need of the child for permanence takes priority.
- The safety and the protection of looked after children will be an overriding priority for the service.
- Contact between the looked after child and their birth family or other significant people will be recognised and promoted where this is consistent with the child’s individual needs. Where it is possible and consistent with the child’s best interest, siblings will be placed together.
- Adopters and staff will be valued and supported in a way that assists them to provide safe and effective care for looked after children³.

(ii) Central Bedfordshire County Council

Central Bedfordshire Council is a new authority that came in to being from the 1st of April 2009 following the split of Bedfordshire Council. It has a child population of 63,000. On 31 March 2009 the Fostering Service had 126 approved foster carers across the County, including 9 Family Link Carers, 11 Respite Carers, 15 Youth Carers and 1 Remand Carer. Some of the Family Link and Respite Carers also provide short-term or long term foster care. 10 of the approved foster carers were friends and family providing placements for specific named children. Of the 126 carers, 15 households were from black and minority ethnic groups On 31 March 2009, there were 118 children placed in foster care provided by the Fostering Service. In addition children were placed with foster carers approved by other local authorities or independent fostering agencies. The Family Link Scheme currently provides respite care for 17 children with disabilities and the Respite Care Scheme provide care for 7 children.

Local Safeguarding Children Board is an inter-agency forum for agreeing on how the different services and organisations should cooperate to safeguard children and for making sure that arrangements work effectively⁴. Bedfordshire Local Safeguarding Children Boards (BLSCB) is an inter-agency forum for coordinating the work done by the various agencies to

³ Ibid at p 6.
⁴ It was previously known as Area Child Protection Committee.
safeguard children and promote their welfare, and ensuring that this work is carried out effectively. Bedfordshire LSCB was formally established in December 2004 in response to the requirements of the Children Act 2004 and its accompanying guidance ‘Working Together to Safeguard Children’ (2006). The scope and role of LSCB’s encompasses the broader remit of safeguarding and prevention in addition to child protection. Bedfordshire LSCB also has a role to contribute to the planning and delivery of children’s services through the Children and Young People’s Plan5.

The agency reported that “increased professional and public awareness of safeguarding issues, coupled with changes to local safeguarding practice has led a 25% increase in the number of children receiving social work services during 2009/2010. There has also been a 56% increase in children subject to a child protection plan and a 21% increase in the numbers of looked after children”6. During 2009/2010 159 children were made the subject of a child protection plan compared to 114 children the previous year. Of those children made the subject of a child protection plan 13.2% had been the subject of a child protection plan previously. Good practice is to maintain this target below 15%. The number of children whose child protection plans were discontinued during 2009/2010 was 102, compared to 93 during 2008/2009. Of these 8.8% had been the subject of a child protection plan for more than 2 years7.

Local authorities are required by law to provide adoption support services to meet the needs of people affected by adoption. These people may include adopted children or children placed for adoption, prospective adopters and adopters of children under the age of 18 and birth parents or relatives of adopted children. A senior practitioner at Central Bedfordshire County Council said that an assessment is conducted to identify people eligible for support services. These services among others are financial support to support adoptive placement, mediation in relation to contact between adopted child and a birth parent, therapeutic services for adopted children, training for adoptive parents to meet any special needs of the child, respite care, assistance in cases of disruption and counseling, advise and information. According to her, the assessment process takes no longer than 35 days from the day the assessment is sought. The amount of financial support is the discretion of the Council and varies according to the needs of the adoptive family and children. Support is offered as a weekly or monthly allowance, as a one lump sum or as a series of lump sum payment.

2.2.2 Voluntary Agencies

Voluntary agencies are usually charities with voluntary management board. But, voluntary agencies can be any community organisations that are not necessarily charitable.

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5 Ibid at p 5.
6 Ibid at p 33.
7 Ibid at p 36.
Section 2(5) of the 2002 Act, lays down that:

1. “Adoption society” is a body whose functions consists of or includes making arrangements for the adoption of children.

2. “Voluntary organisation” is a body other than a public or local authority the activities of which are not carried on for profit.

Interestingly, voluntary agencies do not make welfare assessment of a child. They handle only matching of foster parents or adoptive parents with children for whom reunification has been ruled out. Their main duty is to finding placements for hard-to-place children such as those from ethnic minorities or significant disabilities. They have to design their policies and activities to create a pool of foster carers and adoptive parents to respond to the placement needs. These agencies are also regarded as providers of specialist post adoption support services.

When a local authority places a child for adoption, an inter-agency fee is paid, as agreed by them and the British Association for Adoption and Fostering. From April 2006 to March 2007, the fee for another local authority is £12,534 while the fee for a voluntary agency is £19,408. Within regional consortia, reduced fees are negotiated between members, often amounting to about £9,000 per placement. Due to the higher costs involved in arranging placing through voluntary agencies, local authorities are seen to be relying on regional consortia. And, this has caused the voluntary agencies to claim marginalisation.

St. Francis’ Children’s Society which was interviewed, is a registered voluntary adoption agency based in Milton Keynes. This agency was formed in 1869 by the Roman Catholic Diocese of Northampton but is now playing a crucial role in placing children of any race or creed. It aims to seek by all possible means adoptive families for some of the most deprived and needy children in the UK. It concentrates on finding families in Buckinghamshire, Bedfordshire and Northamptonshire specialising in actively seeking families for children who are regarded as “hard to place” by the local authorities. These are often those with very challenging behaviour, with medical problems or from ethnic minority groups.

Its main focus at present is recruiting, assessing, preparing and supporting adoptive parents for children of all ages who need security and permanence in a new family. It has been building families through adoption for over 50 years and has placed over 2,000 children. Its services are offered for free. It is supported by monies earned on a fee basis paid by local authorities for placements identified for children in their care, projects organised by the agency and by individual donations from a wide range of sources. It organises family events to attract prospective carers and provides systematic training to adopters and foster parents.

See report by voluntary agency on this issue.
http://www.communitycare.co.uk/Articles/2007/02/08/103258/Adoption-agencies-claim-they-are-being-marginalised-by.htm
It is not registered to provide a service to adopters wishing to adopt children from abroad but it helps to connect them with British Association for Adoption and Fostering (BAAF) or the Inter-country Adoption Centers.

The vast majority of 55,000 children in care return to their birth families but for around 2,500 children a decision is made that adoption is in their welfare. The social worker explained that adoption today, is not about providing couples with trouble free babies. It is about finding families for children of a range of ages with challenging backgrounds and complex needs. The information given to prospective adopters is as follows “Most children who need adoption have had very troubled early years. They may have been physically, emotionally or sexually abused or neglected. They may have lived in an environment where there was violence or substance misuse. These children may have lived with a number of carers. They need adoptive parents who can offer them a family for life where they are loved, protected and encouraged to achieve their full potential. The agency’s advise to prospective adopters is “adopting a child is a life changing decision. You should enjoy the company of children. You need to have the capacity of understanding a child’s behaviour and feelings and accept the child’s history”

2.2.3 The Child’s Welfare Principle

Both the local authority and voluntary agencies are required to consider the child’s welfare in the discharge of their respective duties, as incorporated in Section (1) of the 2002 Act and Section 1(4) has a welfare checklist providing guidance on the welfare of the child’s determining factors.

(1)This section applies whenever a court or adoption agency is coming to a decision relating to the adoption of a child.

(2)The paramount consideration of the court or adoption agency must be the child’s welfare, throughout his life.

(3)The court or adoption agency must at all times bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child’s welfare

An agency shall have regard in particular to a number of matters set out in the welfare checklist and in particular:

1. the ascertainable wishes and feelings of the child concerned;
2. the child’s physical emotional and educational needs;
3. the likely effect on the child of any change in circumstances;
4. the child’s age, sex, background and any relevant characteristics;
5. any harm which the child has suffered or is at risk of suffering;
6. how capable each of his parents and any other relevant person are in meeting the child’s needs.
2.2.4 Placement Procedure & Process

In practice, the agencies need not consider all the factors in each case but suffice if important and relevant matters are not compromised. It may also consider other factors that are specifically relevant to the particular case. An adoption agency before placing a child for adoption must carry out certain investigations. They should compile a case record for each child covering the history of the child and its parents, including their health, and also prepare medical reports. There is a specific form or template known as the “Child’s Permanence Report” introduced by British Association for Adoption and Fostering (BAAF) which is used by almost all the local authority adoption agencies in England.

The agency’s independent adoption panel will consider a report on the application and recommend whether or not applicants should be approved as adoptive parents. After prospective adoptive parents are approved, their agency will try and match them with a child. Agencies could also refer prospective adopters to the Adoption Register which links waiting children with waiting approved adoptive parents. The Adoption Register was launched in August 2001, and is a database designed to bring together information on children waiting to be adopted and approved adoptive parents. Potential links between children and adopters on the database are identified and followed up.

2.2.5 Child Assessment Framework

All the agencies interviewed in England confirmed that they are bound by the “Framework for the Assessment of Children in Need and their Families”. It is a framework from the Department of Health for a holistic assessment of a child’s circumstances. It aims to help practitioners to gather and make sense of the relevant information and clarify the next steps. It comprises of three domains that provide the potential for a holistic, specialist assessment of need to which all agencies and carers can contribute. The three domains are (1) the child’s developmental needs; (2) parenting capacity; and (3) family and environmental factors.
This triangle dimension provides a model to help social workers make judgements about the child's developmental needs and the parents' capacity to meet the child's needs. It provides a framework for guidance and instruments for carrying out assessments at two levels, initial and core. Initial assessments were to be carried out at the referral stage to ensure the systematic screening of needs early on in the process of engagement with families. Core assessments were required in cases where families were judged to have more complex problems, including safeguarding concerns requiring more comprehensive examination and possibly a more elaborate provision of services or intervention. Timescales were prescribed for completing these assessments: 7 days for initial and 35 days for core assessments, and assessors had to gather information along three parameters: the developmental needs of the child, the capacities of the parents and the environment surrounding the family. These interacting factors had to be assessed in terms of their significance for the child's welfare and safety.

The Integrated Children’s System (ICS) has been introduced to improve outcomes for children in need and their families who are provided with services under the Children Act 1989, The Children (Leaving Care) Act 2000, Adoption and Children Act 2002 and the

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Children Act 2004, through improved practice and management of children in need cases. Implementation of the ICS is expected to contribute to achieving the five outcomes of (1) being healthy; (2) staying safe; (3) enjoying and achieving; (4) making a positive contribution; and (5) economic well being for children and young people with the highest level of need. The main objective of the ICS is to provide a conceptual framework for the core processes of (1) assessing the needs of children and their families; (2) planning how best to meet their needs; (3) intervening to provide services to meet the needs; and (4) reviewing the assessment, plan and intervention. It will assist the transfer of information between agencies and support multi-agency working.

The Government will bring together the Framework for the Assessment of Children in Need and their Families and the Looking After Children System for planning for children in care into a common framework for assessment, planning, intervention and review for all children in need. It will include help with deciding whether the child can return to their birth family, and on making contingency plans to prevent undue delays. The Government has also published guidance on Working Together to Safeguard Children that includes information about decision making for children, and the role of Family Group Conferencing in working with families. Family Group Conferences are a process through which family members are enabled to meet together to find solutions to difficulties that they and their children are facing. They allow the skills and experience of the wider family, as well as of professionals, to be used in planning and decision-making.

2.2.6 Care Plan

A care plan (1) determines why it is in the child's welfare to become looked after or whether other support services would be able to meet their needs; (2) identifies the child’s assessed needs and the services which will be provided to meet those needs; (3) sets the framework for the services provided to the child and family to enable the desired goals and outcomes to be achieved for the child. It contains the long-term plan for the child and how permanence is going to be achieved. The care plan is built upon a specialist assessment which identifies developmental need, capacity to meet need parental capacity and family and environmental factors and an evaluation of what has happened to the child. The assessment must be continually updated and must feed into revisions of the care plan and into the review process.10

One social worker in England explained that “care plans are drawn up with consideration to the child’s short and long term needs and the birth parents or families’ ability to meet those needs. Cases are not presented to the adoption panel for ‘should be

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Planning for Looked After Children
placed for adoption' recommendation until family members are assessed and ruled out. The assessment may include experts’ assessment such as psychologists, psychiatrist and psychotherapist. The statutory review is a meeting to check if the care plan is still right for the child”. By law, meetings must be held at specific times:

- The first review is held within four (4) weeks of the child becoming looked after;
- The second review is held within three (3) months of the first meeting;
- After the second review, meetings will be held every six (6) months until the child is no longer looked after.

### 2.2.7 Planning for Permanence

The Department of Health in England have set the timescale that by the second review, that is four months after becoming looked after, the plan for permanence must be in place for each child. The aim of the adoption standards\(^\text{11}\) and these permanence initiatives is to reduce delay in these early months. Achieving permanence requires proactive assessment and care planning following entry into care. This is particularly important for very young children. There are two types of planning allowed namely parallel planning and concurrent planning. The definition provided by Monck\(^\text{12}\) is as follows: “Parallel planning is assessing the parents, the extended family and the development of a care plan for placement outside of the family. The child is meanwhile in foster care or residential accommodation but there is no built in expectation or plan that foster carers will adopt the child if rehabilitation with her birth family proves impossible. Concurrent planning is the capacity of the birth parents or wider birth family to parent the child is investigated. At the same time the child is placed with foster carers who, if the birth family cannot parent, become the adopters”. Generally, foster carers within concurrent planning schemes are dual-approved as foster carers and adoptive parents.

Dance and her team report from a recent survey conducted on the practices of agencies in England that ninety five percent of the agencies confirmed using parallel planning and sixteen percent used concurrent planning, in addition to parallel planning\(^\text{13}\). In any event, social workers should also have contingency plans in place for all children that can be activated in the event of a plan not being implemented or the placement breaking down. Contingency planning is a plan that can substitute the parallel planning or concurrent planning. A firmly fixed plan is being pursued but the plan considers what will happen if this

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\(^{11}\) See Adoption: National Adoption Standards for England, Department of Health, 2001

http://www.uea.ac.uk/swp/icar2/pdf%27s/monck105.pdf

\(^{13}\) Dance, C., and Others, Linking and Matching: A Survey of Adoption Agencies Practice in England and Wales, British Association for Adoption & Fostering, 2010, p 46. (44% of local authorities and 55% of voluntary agencies in England and Wales participated in the survey)
fails by determining: the priority needs, what type of placement will be sought, the options available, what support will need to be in put in place and what the resource implications are\textsuperscript{14}.

2.2.8 Child’s Permanence Report

In the UK, Child’s Permanence Report (CPR) is a report that the child’s social worker has to present to the Adoption Panel when the Panel’s recommendation is sought on whether or not the child should be placed for adoption. The purpose of the Child’s Permanence Report is to enable the Adoption Panel and the Agency Decision Maker to discharge their functions under the Adoption Agencies Regulations 2005 including compliance with the welfare checklist in section 1 of the 1989 Act. The maker of the report must be suitably qualified and experienced social worker. This report comprises of a core report and a number of other sections depending on the circumstances of the child.

There is a standard format or template issued by the British Association for Adoption and Fostering (BAAF)\textsuperscript{15}. Dance showed that almost 88\% of the adoption agencies use this standard format when they make the best interest decision for a child requiring protection\textsuperscript{16}. Among the factors required to be considered by a social worker who is preparing the CPR are the wishes, views and feelings of the child wherever these can be made available, the child’s parents and other birth family members and other special people in the child’s life such as friends.

The report combines facts about the child and the people who have played an important part in their life to date. It also contains evidence about the child’s development and their need for a permanent family. The report will combine the work of many different people contributing their experience, understanding and knowledge of the child and their circumstances. These people will include professionals from health, education and social services including foster carers. The material gathered together for this report needs to be properly evaluated and analysed. It is important to write clear and honest report that form a crucial part of the child’s history and case records. Only when this is done, can it meet the child centered purposes for which it is designed.

2.2.9 Adoption Register

To facilitate rapid placement and better matching National Adoption Register has been established. It is being operated by the British Association for Adoption and Fostering on behalf of the Department of Education since 2004. The Adoption Register works with

\textsuperscript{14} Planning for Permanence 
http://www.ncb.org.uk/careplanning/careplanning/careplanning.html

\textsuperscript{15} This form is only available as an electronic template. See the link below: 

\textsuperscript{16} Dance, C., 2010, p 47.
adoption agencies and adoption consortia to make sure that all children and families have the best chance of finding a suitable match. Its main purpose is to find adoptive homes for those children for whom local authorities cannot find a home locally. 238 children have been matched through this register in 2010 (1/4/2010 to 31/11/2010) which is the sixth year since it started operation\(^{17}\). Agencies should refer to the Adoption Register those children awaiting adoption for whom there is not already a link identified locally which is being actively pursued. They must also refer details of adopters within three months of the adopters’ approval. Before the details of the child could be entered into the adoption register a referral form has to be submitted. The referral form includes a declaration by the person completing the form that all the necessary consents have been obtained.

It is the responsibility of each agency to ensure that such consents have been obtained and are recorded on file, and that those giving their consent understand the implications of their consent: (a) adopters must give their consent to being referred to the Register, in the understanding that this means information about them will be shared with other adoption agencies; (b) children who have the capacity to understand the purpose and functioning of the Adoption Register must give their consent to being referred to the Register; (c) where a child is the subject of a Care Order or Interim Care Order and the agency has parental responsibility, the agency manager entitled to exercise that parental responsibility must, after consultation with all others with parental responsibility, give consent to the child being referred to the Adoption Register. Where there is an Interim Care order only, the agency does not need to obtain the agreement of the court; (d) where a child is accommodated the birth parent who holds parental responsibility must consent to the child being referred to the Adoption Register\(^{18}\).

### 2.2.10 Case Study of an Agency’ Placement Practice

One agency interviewed in England explained its placement process in detail. The social worker said that for adoption the looked after children social worker compiles a ‘Child Permanency Report’ detailing all of their background information and what led to them being placed in care. It also includes updated reports from foster carers caring for the child, a medical report, any educational report relevant, also the wishes and feelings of birth parents and the child, and if any family members were approached to care for the child and why this was not appropriate. It will include information about siblings and a genogram\(^{19}\). The

\(^{17}\) See Adoption Register for England and Wales

\(^{18}\) Information for Agencies and Social Workers

\(^{19}\) It is a diagram outlining the history of the behavior patterns of a family’s members over several generations in order to recognise and understand past influences on current behavior patterns and also a similar diagram detailing the medical history of the members of a family as a means of assessing a family member’s risk of developing disease.
Prospective Adopters Report which once completed is quite a lengthy document is also required. The child’s needs and wishes are then matched against prospective adopters with the best possible match. The geographical area is considered as children are usually placed within the same county so where their families live, socialise, shop and go to school to try and ensure that they are unlikely to be living on a daily basis in the same areas.

A matching meeting is held for the looked after social worker to consider any potential adopters for the child she is overseeing. The matching needs profile for the child considers: race, cultural experience, religion, physical and emotional health, education, contact issues with birth parents and siblings, locality, child’s wishes, parents wishes and any other specifics, for example if the child needs to be placed as the only child in the family and if a single parent or two parent family is recommended. Once adopters are identified then they will be visited and if appropriate more information and discussion can be undertaken and possibly a photo of the child shared with them. The match then has to be presented to a panel and if it is agreed that the match is in the child’s best interests then introductions begin over anything from a few days to a couple of weeks. Foster carers assessments are slightly shorter and they usually can offer to care for children of specific ages groups and sometimes genders, some can care for special needs better than others so this is considered when placing children (often this placement is undertaken in an emergency situation so there is a database of carers to quickly identify who has space and can meet need). The Council also has youth carers who specifically take older children often teenagers who may present a number of challenges.

It is not only the child but also the present and future contributions by all persons having ties with the child are relevant factors in the determination of the child’s best interest and best alternative placement. The final placement plan is devised by the social worker for the Looked After Children Team along with the agreement from the family finding social worker (based on the adoption team who acts as the link between a child’s social worker and prospective parents social worker) and also the adoptive parents social worker. A manager is usually involved in chairing the meeting where the plan is made in relation to a chosen placement, namely the best match. The placement plan drawn up for each foster care placement a child may have is drawn up by the child’s social worker but is reviewed by independent Review Managers who monitor placements for looked after children.

However when considering the type of placement for a child, if an adoptive placement is in their best interests then this is presented to a panel of multi agency staff who agree that this is the best plan for a child, the Court also has to agree this when they end the parental responsibility of the birth parent and give the local authority permission to seek a permanent placement for a child. The Council has a panel in adoption that is used for recommending a child can be placed for adoption, the same panel also recommends couples be prospective
adopters after their assessment and the same panel also recommends a match. The panel consists of a chair person, a representative from education, social services, health, medical agency decision maker (who sits on panel and oversees medical reports on all the looked after children), prospective adopters, an adult who was adopted in childhood and a birth parent. There is also often an observer, a minute taker and a panel advisor but the last three people do not have a vote. Once a recommendation is made the paperwork is sent to our Director of Children Services who has to agree the decision within seven (7) days. There is also an Independent Review Mechanism that is a way of people appealing a decision, when they have disagreement.

It is crystal clear that England has a clear framework on the child’s assessment for the social workers and other parties involved in placement of children, both in short-term and long-term planning. Only the public authorities are authorised to make child’s welfare assessment in a placement decision-making and they are required to comply with strict laws and regulations, namely the welfare checklist and welfare assessment framework. The assessment triangle especially is a key framework that evaluated the needs of the child before a placement decision is made. Having extensive framework on assessment of the welfare of the child guides the social workers to ask proper questions to the child and other related persons and take into account important factors surrounding the child. It does not mean that social workers always make the “best choice” for a child but the framework guarantees a well-considered and well-evaluated plan for a child and not just a selection at random.

2.3 Japanese Agencies’ Practices

In Japan, there are three types of agencies handling placement of children requiring protection namely public agencies, quasi–public agencies and private agencies. The local government sets up public agencies as part of its social services to its citizens. Quasi-public agencies are formed by private individuals or organisations to assist the public agencies, in foster care placement and adoption arrangement. The public agencies will make monetary contribution to the quasi-public agencies in accordance with the services rendered. Private agencies or individuals like of doctors, lawyers, former social welfare officers or just a person interested in helping needy children are also allowed to make placement decision and handle adoption cases. This is in light of Article 35(4) of the Child Welfare Act, 1947 (CWA) which provides that “a person other than the national, prefectural and municipal governments may establish a child welfare institution, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, with the prefectural governor’s approval”. Both the quasi-public and private agencies handle domestic and international foster placement and adoption while public agencies concentrate on domestic child placements and other family consultations.
2.3.1 Public Agencies

The CWA, which was introduced in 1947 created the CGC. The CGC are public agencies responsible for the welfare of the children, equivalent in nature to the local authority social service department in the UK. The prefectural governments are governed by Article 11 of the CWA\(^20\) in the discharge of their duties and the CGC’s duties are prescribed under Article 22 of the CWA\(^21\). The CGC are vested with the duty to formulate programs to help children requiring protection and their families. They often located in the City or Ward Office the government office and responsible for placement of children requiring protection under their jurisdiction. They have jurisdiction over the placement of children, home studies, and adoptions.

In accordance with the CWA, each of Japan’s 47 prefectures operates several CGC that provides a wide range of family related services. Since its inception the number of CGC has been increasing: in 1948 there were 98 CGC and they gradually increased in number to 174 in 2000 and 197 in 2008. The number of Child Welfare Officers (CWO) serving at these institutions has risen from 1,313 in 2000 to 2,358 in 2008. These CGC provide an average of 300,000 consultations per year with the highest consultations of 398,025 in 2002 and the least number of consultations of 341,629 in 2003. The year 2007 recorded about 367,852 consultations of which 40% were child abuse related consultations. In 2007, 40,639 child abuse related consultations were made comprising of physical abuse (40.1%), neglect (38.0%), sexual abuse (3.2%) and psychological (18.8%)\(^22\).

Osaka Prefecture has been selected for the purpose of case study. Osaka Prefecture is divided into three different areas in respect of administration, namely Osaka Prefectural Government, Osaka City and Sakai City and each local government has its own child protection policies and system. Osaka Prefectural Government has six (6) cities and a CGC in each city: Ikeda City, Suita City, Chuo City, Higashi Osaka City, Tondabayashi City and Kishiwada City. Two of its cities namely Osaka City and Sakai City have their respective CGC with their own set of policies and services to serve their child population. In order to establish “good practice” in child protection Osaka Prefecture, Osaka City and Sakai City hold a meeting once in a month to discuss and identify common problems and find resolutions. Each has its own temporary shelters to place children taken under temporary protection although they share space availability in the shelters and other private institutions. Placements of children requiring protection are usually made in their respective jurisdiction. Inter-agency consortia are being practiced but remain unpopular due to

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\(^{20}\) In November 2004, the Child Welfare Act was revised to: (i) enhance services of the CGC, (ii) review child welfare facilities and the foster parents’ system, and (iii) review the involvement of the court in the handling of children requiring protection.

\(^{21}\) See the page below for an official translation of the CWA.

\(^{22}\) Source is Ministry of Health, Labour and Welfare (2008).
In 2008, there were a total of 275 staffs at Osaka Prefecture (exclusive of Osaka City and Sakai City). There are 6 CGCs in Osaka and one caseworker is in charge at each center. It is common in practice for one caseworker to handle the placement of about 107 children. The child population in 2008 was 930,452. A total of 468 children were taken into temporary custody by the CGC. There were 59 foster placements, 4 adoptions. Overall consultations on children related issues were 4,537. The CGC was consulted on child abuse, parental sickness, and parental death and so on. Of the 4,537 children, 607 were institutionalised, 38 were placed with foster parents, 3773 were subjected to counseling and observation and 171 were classified as others. There are at present 151 foster parents in Osaka Prefecture and children are placed with 44 of them. Child safety is the priority of this city and measures are taken accordingly to safeguard children requiring protection.

The social worker interviewed at Ikeda CGC said that it concentrates on promoting foster parenting system. It provides temporary protection to abused, abandoned or neglected children and for children requiring health care or special medical treatment. Temporary protection is provided for a maximum period of two months in accordance with Article 28 of the CWA, unless special circumstances exist requiring the child to be protected for a longer period. The CWO at Ikeda CGC will decide whether the children who have been admitted under temporary protection system should be sent to an institution or to foster family. These officers are qualified with degrees in social welfare or childcare. A team headed by a manager then considers the decision. In a more difficult case or where birth parents strenuously object to a particular placement, the matter is referred to the Child Welfare Council that comprise of medical and legal experts. Caseworker and child physiologist will usually work together to make a suitable placement for the children having special needs.

The social worker stated that priority is given to placing a child in a family setting namely foster care unless the birth parents object to it. Placement becomes a problem when the birth parent refrain consent therefore placing a child in an institution is easier than placement with foster family. It is difficult to deal with parental authority in Japan because birth parents have explicit parental authority over their children even in abuse cases until the courts finds otherwise. The law has now placed parental authority on the chief of an institution child abuse cases making it easier to make decision on behalf of the child. The investigating officer hears the child’s wishes if the child is able to express his or her opinion. She expressed that placement decision-making is a difficult task and tedious.

Osaka City is another CGC interviewed for this dissertation. It has a total of 101 staffs. Its child population was 374,393 in 2008. There were a total of 2,344 consultations regarding children and 443 children were taken into temporary custody by its CGC. Of 449 children requiring protection, 235 were reunited with their respective birth parents or
guardian, 162 were placed in institutions, 12 were placed with foster parents and other measures were taken for the remaining 40. There are 82 registered foster parents in this city. Osaka City appears to have a better social care system for children requiring protection.

The social worker explained that in emergency situations, cases are referred to a Emergency Decision Making Board. Child abuse is the major cause for children being taken into temporary protection. Children themselves report abuse through the telephone hotline services, police will inform the CGC if the parent or guardian is arrested or teachers, neighbours or even a member of the extended family will seek help. In recent years many children are taken into temporary custody for whom the CGC has to decide the suitability of institutionalisation. She said that high school students post as the majority of children requiring protection because they are difficult to control. Osaka City also support or accept placement of children from the neighbouring cities. After a child is taken into temporary protection, the social worker has to prepare an assessment sheet (care plan) considering reunification with birth family. The social worker will decide a placement by taking into account parental consent because parental right is a “big thing”. The agency decides a placement in a team comprising of social worker, manager and experts, where necessary. As a policy, adoption is arranged for orphans. Foster care however is a problem in this city because it requires the consent of birth parents that remain difficult to obtain. Dispensing with parental consent is easier said than done because it requires the approval of the court that is assisted by a court investigator whose opinion of what is best for the child may differ considerably from that of the agency. There is a non-profit organization called the Association for the Prevention of Child Abuse that is active in Osaka City and aims to create awareness on the prevention of child abuse.

2.3.2 Quasi-Public Agency

There are two quasi-public agencies in Kansai Region: one is Osaka Office and the other is Kobe Office. The work undertaken by these agencies are slightly different but both are social welfare cooperation supporting alternative placement for children at the request of the CGC or birth parents, extended families or relatives. The Adoption Agency was initially founded in 1962 in Kobe and then opened a branch at Osaka in 1964. After World War II many institution were formed to care for war orphans and by mid-1960s these institution were able to offer children for adoption because the economic situation of general public has improved. This agency is run with the assistance or cooperation of the CGC and the press: the Mainichi Newspaper supports the Osaka Office while Kobe Newspaper supports the Kobe Office. A child’s photo is advertised in the newspaper on weekends and interested foster parent who are registered with Osaka Prefecture come forward to adopt the child by calling the CGC. Since 1964, a total of 2,239 children had been advertised for adoption in
Daily Mainichi Newspaper: 1500 children had been placed with foster family and 935 have actually been adopted. The newspaper charges no payment for such advertisement.

This agency has six (6) social workers who have degrees in social welfare and it is being assisted by two (2) persons from Osaka Prefectural administrative office. It also has a Director who has vast experience in child welfare issues. Every year the agency handles adoption application for about 50 children who live in Osaka Prefectural Institutions and for whom the CGC has made a decision to offer for adoption. The social workers are assigned a particular number of children at the institutions. These social workers will decide at the conclusion of interviews whether a particular prospective adoptive parent should adopt the child. Basically this agency is vested with the duties of sourcing for adoptive parents and matching the right ones with the child.

Condition before a child could be offered for adoption; (1) the prospective adoptive parents must have registered as foster parents with their city of residence; (2) only children who cannot return to their birth parents until 18 years are offered for adoption; (3) the birth mother or parents have duly consented for adoption. Matching process is started upon receiving a request from prospective adoptive parents. Prospective adoptive parents are given counseling and consultation on the adoption process including the necessity of making a court application.

After completing a series of interviews with the prospective foster parent relatives, neighbours and house visitation, the child will be introduced to them. They can at that point of time decide whether or not to adopt the child. The points focused at the interviews by the social worker in charge of the child include the relationship between the parents, why their wish to adopt the child, the support or opinion of extended families who will help to raise the child, the capabilities of this couple in raising a child, society's perception, financial capability, the condition their house and residential area. After which a lengthy and substantial report will be submitted by the agency to the CGC that will then decide whether or not to allow the adoption.

The child will be placed with the foster parents for a trial period of 6 months where necessary expenses to raise the child will be borne by the placing City. An application will then be made to the Family Court to obtain approval for the adoption. The whole process takes about one year provided the CGC has secured the consent of the birth parents. If consent revoked by birth parent it takes much longer for the CGC to convince the court that adoption should be allowed. CGC of Osaka Prefecture restricts advertisement for adoption to only children whose birth parents have expressly consented. Osaka City is known to advertise children for adoption without first securing parental consent.

This agency also provides aftercare support where necessary like counseling and consultation on raising children. It sends letter every month to the foster or adoptive parents.
Sometimes, parents shifts and do not inform the agency about it. If any problems arises after a long time may not be able to resolve it. Basically, no problems because once adopted a child belongs to the adoptive family. Contact after adoption is not arranged especially in special adoptions cases and even in regular adoption contact is not encouraged.

The agency is financially supported by its members and partly by placing fees contributed by Osaka Prefecture, Osaka City, Sakai City, Kobe City and Hyogo Prefecture. It does not receive any donation or fees from foster or adoptive parents. No profit making is practiced. It prefers to keep financial support from Osaka Prefecture minimum otherwise it will have to take instructions or guidance from the prefecture in its operation and decision-making. It does not arrange international adoption because only a foster family can adopt a child under its system. There are about ten other private adoption agencies in Japan but the Osaka Office and Kobe Office do not collaborate with any other adoption agency in Osaka, Japan or abroad. On the face of it, it appears that this agency does not face any major problem in adoption process because it works within its own system: foster care cum adoption.

<table>
<thead>
<tr>
<th></th>
<th>Kobe Office</th>
<th>Osaka Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adoption</td>
<td>637</td>
<td>986</td>
</tr>
<tr>
<td>Foster Care</td>
<td>53</td>
<td>27</td>
</tr>
<tr>
<td>Family Reunification</td>
<td>134</td>
<td>73</td>
</tr>
<tr>
<td>Institutionalised</td>
<td>81</td>
<td>92</td>
</tr>
<tr>
<td>Independent</td>
<td>117</td>
<td>30</td>
</tr>
<tr>
<td>Others (death etc.)</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Total Placements</td>
<td>1025</td>
<td>1208</td>
</tr>
</tbody>
</table>

The chart above shows the total number of placements effected with respect to children placed with foster families by both the Kobe Office and Osaka Office, since their inception. The Osaka Office has made a total of 1,208 placements with the majority being adoptions amounting to 986, followed by 92 children returned to institution, 73 children reunited with their families, 27 placed with foster parents and for 30 children foster care was terminated because they reach the age of majority. The Kobe Office managed placements for a total of 1,025 children: 637 were adopted, 53 were placed with foster parents, 134 were reunited with their families, 81 were re-institutionalised, 117 became independent and 3 were reported dead. As of March 2010, a total of 80 children are living with foster parents: 13 in Kobe City, 35 in Hyogo Prefectures, 6 in Osaka City, 4 in Osaka Prefecture, 2 in Sakai City and 20 in other places.

In 2009, the Kobe Office arranged 9 adoptions, 3 long-term foster placements and 4 weekend fostering whereas the Osaka Office handled 19 adoptions and 1 weekend foster care
but did not make any long-term foster placement. The total number of applicants since their respective inception amounts to 17,317 at the Kobe Office and 22,456 at the Osaka Office. The special feature of these agencies is its training for prospective foster parents: 4 times basic training and 3 times special training prior to selection. They invest time and effort in these training to reduce disruption of foster placement including with a view to adoption.

These agencies are partially subsidised by the prefectural government that tends to seek their expertise to solicit for prospective foster carers and adopters. Association for the Promotion of Family Care, the adoption agency that I visited advertises one child a week in Mainichi Newspaper (Sunday) for foster or adoption placement. According to its officers, whether a child should be adopted or not is decided by the officer at the CGC and the agency merely helps out in looking for prospective foster or adoptive parents. “Sometimes, it takes years to find a suitable placement for a child because of the assessment process involved” she says. The officers at the agency play a very important role in the selection of the prospective foster or adoptive parents because interviews and house visit conducted by its officers, a lengthy report is submitted to the CGC for approval and in most cases its recommendations are approved. The officer said that no fees are charged in processing the application but its member and donors sponsor the agency. On why the agency does not seek financial assistance from the prefectural government, she reluctantly said that the agency will have to abide by the prefecture’s orders if it does so.

2.3.3 Private Adoption Agencies

Private agencies are also popular as family services provider in Japan. This is due to the fact that Japanese people do things that are “unacceptable” to the society in a secretive manner. Adoption of strangers is especially a social stigma resulting in those who wish to turn to private individuals or small agencies for help. There is no legal requirement for adoption to be processed by an agency. Prospective adoptive parents may find children available for adoption through private organisation such as missionaries, social welfare organisations, doctors associations and lawyers. Private adoptions are practiced secretly. Sometimes, young couples who want to adopt turn quietly to obstetricians or doctors who deliver unwanted babies. Children are also handed off privately between families, sometimes with the help of a doctor, lawyer or broker who for a price will fake a birth certificate.

The actual number of private agencies is unknown as not all agencies come forward to register itself with the local government despite the requirement for notification compelled by the Ministry of Health, Labour and Welfare. The notification (yoshi engumi assen jigyō no shido) introduced in 1987 requires private adoption agencies to file notification with their respective local government within one month from the start of their involvement in adoption arrangements for children below eighteen. It obligates the agencies to file personal
history of the individual or organisation handling adoption, office administration and management plan, income and expenditure plan and the number of adoption arranged, annually.

However, Takakura points out that there is no verification of the information provided by the agencies prior to acceptance of the notification by the local government office. He has also shown in his book that in 2004 only eight agencies has submitted notification with prefectural office: five out of the eight are international adoption agencies, while three agencies handle only domestic adoption. At the time in point, at least twelve other agencies had not submitted the said notification: seven of those agencies were international agencies while five handle domestic adoption. His survey revealed that about seventy (70) children were adopted internationally in a time span of fifteen years, through seven agencies that had failed to comply with the notification (non-notification agency). He claims that the Ministry of Health Labour and Welfare is aware of neither the existence nor the activities of such agencies23.

Nonetheless, private agencies handling international adoption have gained popularity in recent years. The International Social Service of Japan (ISSJ) is a well-known international adoption agency with its office in Tokyo but arranges adoption of children nationwide, including for children in Osaka. The International Social Services is a non-governmental organisation that has branches worldwide and its branch in Japan was established in 1959. Before being sanctioned by the Ministry of Health Labour and Welfare as ISSJ, it was an organisation established to care for war orphans and racially mixed children in 1952. It begin to offer social work at international level since 1959 and at present has twenty eight staffs handling matters such as international adoption, foster care and social work. This agency is well known for its counseling services for international adoption. It has fifteen social workers who possess degrees in social work or child care and undergo on job-training. It also has five volunteers and two translators to help with the increasing consultation on international adoption.

It arranges international adoption for especially racially mixed children who according to its social Secretary General has limited opportunities to be adopted locally. It also organises an international annually and invite speakers from other ISS to exchange information about the development of domestic and international adoptions in their respective States and create awareness on the importance of regulated adoption. The ISSJ has in 2009 conducted a survey on the international adoption arranged in Japan through a number of 214 CGC and 23 private agencies. Its research concludes that a total of 78 CGCs made 266 foster placements with a view to adoption but only 13 international adoptions had been arranged through CGCs in 2009 by some 9 CGC. And, only two (2) recognised agencies

(including the ISSJ) are arranging international adoption in Japan at present. It shows the lack of involvement by the CGC in international adoption. It also reveals that many private agencies did not participate in that survey as the number of actual private agencies handling domestic adoption and international adoption nationwide is about fifty in 2004, according to Takakura\textsuperscript{24}. The present number of agencies should be the same or even more due to the increase in children requiring protection in Japan.

An individual known as Ms. A\textsuperscript{25} is an example of private individuals arranging adoption for children requiring protection. She arranges placement for children of especially unwed mothers domestically and internationally. She has brought up surrounded by children requiring protection by her priest father at a church. Her father managed an orphanage and handled moral adoptions to give a family for the needy children. His orphanage was always crowded and it received funding from the State government. She recalled during the interview that when she was a ninth grader, a four months old baby girl was left at alter of their church and her parents raised the child as theirs. Her parents were made the child’s guardian and the child’s name was entered in the records kept by the city office as a child without parents (orphan in a strict sense). When the child turned twenty (20) she was legally adopted (as an adult under Article 794 of the JCC) through the family court. Her schoolmates bullied this girl at school because she was adopted.

Ms. A handles international adoption on a voluntary basis. She does not have an office and neither is she bound by any regulations. The CGCs, some private institutions, doctors and friends seek her help to arrange adoption for children of unwed mothers and abused children. International adoption appear to be her favourite form of placement because she claims that Japanese adoptive parents are very selective and have many preferences like they prefer cute babies from intelligent as well as good family background and of good personality birth parents. Some prefer boys to carry on the family lineage and others prefer girls who can take care of old aged parents. She does not charge a fee for adoption but is be paid actual expenses incurred in processing adoptions like telephone and traveling charges. She has arranged thirty seven (37) adoptions in total and has herself adopted two (2) children from institutions and had fostered many children at her church home.

\textsuperscript{24} Ibid at p 75. Also see pp 202-203 where Takakura has highlighted the arrangement of about 100 adoptions in 10years by Dr. Kikuta by falsifying birth certificate to make illegitimate infants the biological child of the adopters. But, the doctor was eventually suspended from medical practice for 6 months and ordered to pay 2,000,000yen as penalty by the court. However, the practice of secretive infant adoption is still ongoing but the MHLW is slow, if not incompetent, to identify such incidents or regulate adoption practices.

\textsuperscript{25} The name of the individual has been omitted for confidentiality purposes.
2.3.4 Role of Child Institution in Child Placement

The Osaka Suijo Rinpokan Child Care Center is a child protection institution run by Osaka Prefecture. Children from Osaka region except for Osaka City and Sakai City are placed here. Orphans, neglected, abused and children requiring medical care are placed here on a temporary basis. It has a total of 238 children: 26 infants, 152 children and teenagers and 50 children requiring special care. It also has 2 group cares homes in Oyamazaki City housing about 60 teenagers living on their own under the scrutiny of permanent and volunteer staffs.

The institution was founded in 1931 by a Christian organisation to assist in childcare in the surrounding areas where many fishermen's families lived. All the old buildings have been transformed into modern type buildings and a church is preserved in the institution. When a child is in fourth grade of elementary school the child's wishes are sought as to if he or she wishes to participate in the Sunday mass. Children are not forced to practice Christianity. It has apartment type and hostel type buildings. It is fully facilitated with toilet, bathroom, washing machines, TV, cafeteria and hospital. This institution is an administrative type facility and dependents largely on Osaka Prefecture for financial support. Other sources of financial support are private associations, NPO, donation from public and assistance from private individuals.

This institution provides temporary care to children in need of protection. Most of the children housed here are abused children and abandoned infants. They are placed by the CGC who normally receives calls from the public of such abuses. Older children sometimes call the CGC call center directly for consultation or report abuse at home. Disabled children or children requiring medical treatment stay at hospital in the institution compound during treatment period and when they get well, they return to their home or hostels at the institution. The increase in child abuse in Osaka region has seen an increase in children being placed at this institution, in the last 10 years. Children of illegal immigrants sometimes stay here for a short period on a contract basis. The officer interviewed admitted that many children stay at this shelter until they turn eighteen (18).

On why children come to the institution, he explained that the main reason now is child abuse. Some families face financial difficulties and the parents are not able to care for the children. Also because of unemployment, financial difficulties or inability to care for sick children, parents send them to the institution. Some family with a single parent: single mother or single father has to work and no one to care for the children so they send the children to the institution. Some parents visit the children at the institution but some never bother to do so. There are parents who take back their children after sometime or when they are able to do so. During the economic bubble, very few children were placed at the institution. One shelter in Nara was even closed down because there were no children to be
taken care.

This institution has 144 permanent staffs; some have degrees or are trained in social welfare or psychology. It has one psychologist and some trained social welfare workers. The staff-child ratio in this center is 1:2 for under age three (3), 1:4 for under age six (6) and 1:6 for school age children (primary school to high school). The staffs work from mornings to evenings and became very tired because they carry a lot of burden and do many chores. Relationship between the children and workers are given priority and usually they are very close and attached to one another. Children at the institution go to school like any other children under the compulsory education system. The level of education is low and some face difficulties in finding a job after they reach eighteen (18) years old. The institution offers aftercare services and do assist in finding a job for them. Some graduate from Nursing College or University and get jobs, some become staffs at the institution, some others return as volunteers to help children at the institution. Some children refuse to go to school because they are bullied at school and enjoy the night classes offered by volunteers at the institution.

The officer admitted that many of these children remain until the age of eighteen (18) or twenty (20) in the institution because it is difficult to place them in foster or adoptive care. It appears that each and every child has its own problem and personality making it difficult to make a placement choice. He also stressed that a placement decision is made by the CGC and the staffs at the institution merely take instruction and do the needful. Sometimes, it faces problems from birth parents that hold parental authority and refuse to offer the children for adoption of foster care.

He opined that there should be various types of social support system for children in need beside an institution. Some children are better off with foster family who are caring and able to attend to the child’s needs. Older children, he said could stay in small-scale groups in residential areas where they feel that are self-reliant and accepted by the society. Children requiring special care should be placed at institution because most of the time parents are unable to cater to their needs. Adoption remains low in Japan due to the mindset of the people. Girls are always preferred for adoption when boys are higher in number. The CGC and related agencies help to advertise children from the institution for adoption and sometimes succeeds. He claims that there are not many serious problems at the institution and that the institution is able to serve a variety of children.

2.3.5 Ministry of Health Labour and Welfare


\(^{26}\) In an interview conducted on 13/9/2010 at the Ministry of Health Labour and Welfare in Tokyo.
is as far as possible to place these children in a family-based environment (*katei teki kankyou*). The officer said that the Ministry aims to increase placement with foster parents from the present 3% to 15% by increasing the pool of foster parents and utilising the “unused” registered foster parents. According to her, the Ministry directive to the local government and the CGC is to work towards reuniting children requiring protection with their birth parents. If that is impossible then placement with foster parents must be pursued. The final option should be institutional care but she too is aware that many children are being institutionalised in Japan. Institutions cannot be closed down because some it is necessary for some children who cannot be placed in family-based environment due to their special needs.

She said that the CGCs are encouraged to place older children in smaller groups known as small scale “group care” instead of institutions to enable them to lead a meaningful and an independent life after leaving care. In 2009, 453 independent small scale group care units and 190 small care group care units attached to institutions were in operation throughout Japan. In January 2010, a ‘child parenting vision’ was promulgated which aim to increase the number of independent group care units to 800 and group care attached to institutions to 300 units by the year 2014. These group care units are managed by former foster parents or people with more than 3 years of relevant experience in child protection. The MHLW hope that the group care system will benefit a large number of older children and those who have left care.

As to the composition of staffs in the CGC, she reported that 100% of staffs in Osaka Prefecture are qualified and professionals in child care whereas 73.7% of the child care staffs in Tokyo are administrative personnel who are bound to be rotated within various government departments. In other prefectures throughout Japan too the majority of the staffs are administrative officers though some prefectural governments acknowledge the need to increase the involvement of professionals in child protection services. She admits that the number of children requiring protection has been steadily growing over the years due to mainly child abuse problems and economic crisis. In 2008, there were 36,807 children requiring protection in Japan compared to 36,765 in 2005 and 34,352 in 2000. In the same year a total of 26,453 children were taken into temporary custody by the CGC, mainly due to child abuse by birth parents or guardians. 19,220 out of the 26,453 children were reunited with their respective family while 7,233 were placed in infant homes (institution to place children below 2 years old). A total of 1420 children were placed in short-term foster

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27 In Japanese they are known as 要保護児童.
28 “Syakai Fukushi Shisetsu nado Chosa Houkoku” (1.10.2008)
29 Professional means that the person hold a degree in social work or child welfare but it does not suggest that the person has obtained the required training to deal child placement matters.
30 These are the latest statistics of 2008 provided by the Ministry at the time of the interview.
The number of children requiring protection in Japan in the year 2008 was 36,807 whereas it was 34,352 in 2000 and 36,765 in 2005. It is clear that the number of children requiring protection has been growing steadily every year. In 2008, 26,453 taken children were taken into temporary protection by the CGC. Out of 26,453 a number of 19,220 children were admitted to short-term temporary institutions attached to the CGC while 7,233 were sent to child protective institution (including placement at infants home). In 2008, a total of 4,838 children were admitted to institution and another 1,420 were placed with foster parents. Among the 1,420 in foster care, placed was terminated for 904 children (among them, 437 returned to their parents, 103 became independent because they became 18 years old, 73 become employed) and the type of placement was changed for another 165 children and the were other reasons for the balance of 57 children. The following are the types and number of placements made for the children requiring protection in 2008: 196 adoptions, 1420 foster placement and 4838 placement in institution.

Temporary custody of children is only for a period of two months with the consent of parents. If an extension is necessary but the parents refuse to consent, permission of the family court is required. The decision whether or not to extend the temporary protection is made by the Child Welfare Council of the CGC, which usually consist of child psychologist or other experts. The views of children above fifteen years old are taken into consideration by the social worker in accordance with Article 19(2) of the Special Regulations on Adjustment of Domestic Relations. If children below fifteen are able to express their views, it is also considered. Parental wishes and the views of important extended family members are heard before a long-term plan is made for a child placed under the temporary custody.

On a question to ‘which type of placement is most commonly used by the CGC?’ she explained that the policy is to place children in a family based environment but in practice institutional care is the most popular form of placement. She added that it is because of the limited number of foster parents willing to care for children without conditions. Especially in Osaka Prefecture, foster parents refuse to look after infants who are below the age of two31. The CGC are required to prepare care plan for every child under their custody or supervision and it is known as (1) supporting plan (shien/enjyo keikakusho) or (2) independency supporting plan (jiristsu shien keikakusho). These plans are supposedly reviewed if there be any changes in the circumstances or needs of the child. On whether there are any standard criteria governing child’s welfare decision making, she answered that it depends on the respective prefecture to enact rules in the form of guide, circular or manual (jidousodanijyou uenshishin) but MHLW does not monitor the making or impact of such rules.

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31 This officer has served in Osaka Prefecture as a child welfare officer for 21 years before being transferred to the Ministry in April 2010.
2.3.6 Child Welfare Assessment

Unlike the UK, there is no standard welfare assessment mechanism in Japan. The Ministry of the Health, Labour and Welfare confirmed that there is neither a specific definition of the welfare of the child nor a standard welfare assessment currently practiced in Japan. Each of the prefectural government is authorised to enact its own procedure on child protection matters including the child’s welfare assessment. The Osaka Prefectural Office revealed that it has an internal manual on the assessment procedure but not all its CGC are bound to apply the same manual. Each CGC has its own procedure and practice on the child’s welfare assessment but it is monitored by the national government. Decision-making thus varies according to the policy and practice of each prefectural government and for the matter each CGC. Moreover, not having a definite aim and method on welfare decision-making affects the placement choice for children requiring protection. Not knowing what to consider will make the placement decision-making by the social workers a random process. A child’s welfare assessment framework is thus considered pertinent in Japan.

3. Placement Decision-Making by Agencies

Placement decision-making in the UK is based on a number of guiding principles. These include an emphasis on family preservation (through family reunification measure) and the importance of permanency planning for a child (to avoid indefinite drift in institutions). In Osaka, family reunification is considered crucial but permanency planning is yet to receive acceptance of the CGC resulting in institutionalisation remaining the primary placement option. Who has the authority to make a child placement decision? Is it the Local authorities (State), parents or the child? Because children are immature, the law assumes that they are unable to care for themselves and incapable of making important decisions affecting their lives. (Samuel: 1997). Therefore, decision making authority is vested on the State authorities or parents but never the children themselves.

3.1 Placement Decision-Making Authority

The Adoption Act in the UK establishes new legal processes for placing a child for adoption through an adoption agency, which means for adoptions to be lawful it must go through an adoption agency. Private adoption is no longer recognized. Authorities through which children are offered for adoption are private agencies or local authorities; this means either a Local Authority or a registered Adoption Society but it does not include adoption agencies abroad. Adoption agencies are required to consider the suitability of an adopter and should offer counseling services, explain the legal implications and procedure and provide written information about the adoption. An adoption agency before placing a child for
adoption must carry out certain investigations. They should compile a case record for each child covering the history of the child and its parents, including their health, and also prepare medical reports.

In England, the local authority social services department is vested with the powers to make placement decision-making for children requiring protection. When adoption is the permanent plan for a child, the Adoption Panel’s recommendation is sought which then is sealed by the Agency Decision Maker. The agency’s independent adoption panel will consider a report on the application and recommend whether or not applicants should be approved as adoptive parents. After prospective adoptive parents are approved, their agency will try and match them with a child. Agencies could also refer prospective adopters to the Adoption Register which links waiting children with waiting approved adoptive parents. The Adoption Register was launched in August 2001, and is a database designed to bring together information on children waiting to be adopted and approved adoptive parents. Potential links between children and adopters on the database are identified and followed up.

The Family Court and the CGC, often located in the City or Ward Office are the government office responsible for adoption in Japan. They have jurisdiction over the placement of children, home studies, and adoptions. There is no requirement for adoption to be processed by an agency. Prospective adoptive parents may find children available for adoption either through the CGC or private parties such as missionaries, social welfare organizations, or adoption agencies. It is important to remember that the CGC will only issue a certificate identifying a "child who requires protection" if the adoption is arranged through them. Private adoptions are practiced secretly. Sometimes, young couples who want to adopt turn quietly to obstetricians or doctors who deliver unwanted babies. Children are also handed off privately between families, sometimes with the help of a doctor, lawyer or broker who for a price will fake a birth certificate.

In Osaka, the CGC is vested with decision-making authority for children requiring protection both on a short-term and long-term basis. But, for children who are surrendered voluntarily by their unwed mothers or teenagers forced to give up their children by their parents usually seek the assistance of private agencies or private individual, who decide what is best for the child. In these cases, domestic or international adoptions are arranged in secret by private agencies, without monitoring from the CGC. Hayes observed that in Japan “agencies can make radically different assumptions about what is ethical and unethical, practical and impractical. There is no one orthodoxy about the criteria used to select parents, methods of matching parents with children or the time needed to gain a birth mother’s informed consent.”

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3.2 The Child's Welfare Determination

In England all the social workers and child welfare professionals are bound by the paramountcy principle in determining a permanent placement plan for the child. One social worker in London said that in all cases, social workers are guided by the Welfare Checklist as well as the principles of the 1989 Act and that wherever possible the child should remain within his or her birth family. In doing this, they are guided by the Public Law Outline (PLO) to put plans and services in place to support the birth parents or families in ensuring that they meet the needs of the child. Services, plans or support is therefore based on assessment to identify the child’s specific needs. Another social worker confirmed that the triangle dimensions of the Framework for the Assessment of Children in Need and their Families must be applied in determining the child’s welfare. Another social worker said that a simplified form of the Welfare Checklist is not made available at her agency because the 1989 Act is sufficient and comprehensive.

In Osaka, on what is the definition of the welfare of the child. No specific definition or criteria is available under the CWA which is the governing law for children’s welfare in Japan. But, each prefecture is to formulate its own rules or guidance on the determination of the child’s welfare in placement issues. The CGC may have a guidance or manual and basically it depends on the policy of each prefecture. The Director of one agency expressed dissatisfaction that there is no proper system to evaluate a child’s welfare at the CGC. Most of the time the CGC depends on the approval of birth parents for adoption and that is always never coming. How then a welfare decision is made has to be evaluated from the factors taken into account by social workers and other professionals involved in a placement plan. Another Director said that the child’s welfare means considering the child’s needs. He explained that the decision maker must take into account “what is important for the child”. Security and stability of development, stable human relations, family-based environment especially for infants, are among the vital factors to be considered. Cultural and religious concerns should not be the main deciding factors.

3.3 Factors Determining Alternative Placement

Generally, the social workers interviewed both in Osaka and England expressed that placement plan depends on the needs of a particular child. What amounts to the “needs of the child”? It is a subjective question requiring assessment on a case to case basis. A wide range of factors is taken into account in determining the needs of a child. Lowe and Murch in their research on factors affecting long term planning for the child found that social workers had given “clear” reason or “general” reasons for the option chosen. They categorised “clear” reasons as “one which specifically related to the plan for adoption or long-term fostering” whereas a “general” reason is “one that did not specifically relate to the long-term
plan being formulated” and their example of general reasons were “rehabilitation not possible” and “no suitable relative”33.

Although, this research did not concern evaluation of case files handled by the CGC and private agencies, from the interviews with social workers and Directors in Osaka, it can be safely conclude that many would have arrived at their initial placement decision on a “general” context. It is because most of them cited lack of parental consent as the main reason for institutional placement. Whether eventually, their decision was based on a “clear” reason or factor is a theme that could be pursued by future research by evaluating actual case files and records at the CGC and private agencies. Factors determining the child’s welfare in a placement decision making can be classified into three categories: (a) factors related to the child; (b) factors related to the birth family; and (c) other related factors.

(a) Factors related to the child

(i) Age

Age of the child is the crucial factor considered in a placement decision-making in both England and Osaka and was confirmed by all the social workers and Directors interviewed. In England, generally the younger the child is the more likely adoption is preferred as the permanent plan. It is because of the difficulties faced in finding a suitable adoptive family for older children who have established relationship with birth families and relatives and suffer from attachment problems. Foster parents are comparatively easier to find for older children as one social worker said that her agency have youth carers who specifically take older children often, teenagers who may present a number of challenges. The placement policy of one agency interviewed is to place older children in long-term foster care and younger children generally for adoption unless other option are found best suited to their welfare.

In Osaka too, placement choice for younger children with no identifiable relatives is adoption. The CGC usually offer an infant who is also an orphan for adoption because adopters prefer to adopt newly born babies that has not established any familial relationship. But, one social worker complained some adopters are reluctant to adopt infants because they do not want to be taken by surprise in the future if the child is found to have disabilities. In cases of abandoned babies whose background is unknown, observation is done by keeping the babies in infant homes and after two (2) years, they are offered for adoption. One social worker explained that adoption is pursued for younger children especially below the school going age but once they start schooling institutional care is deemed better. The MHLW officer claims that foster parents in Osaka do not wish to care for babies because too much of

attention and work is involved so the social workers has no other alternatives but to place babies in infant homes.

(ii) Status

Placement decision-making is largely based on the status of children in Osaka whereas it is not considered to be of much relevance in England. From the interviews, I have gathered that in Osaka the following categories of children are available and the placement plans made reflect their status.

1. Real orphans are children whose parents have suddenly died in accidents or due to ill health. When close relatives are unwilling to care for them and consent to adoption, they are placed in foster placement with a view to adoption. A child is placed for a time frame ranging from 1 to 5 years while the CGC decides the carers' suitability as adopters.

2. Abandoned children whose parents have gone missing indefinitely after placing the child with a relative or to the CGC on economical reasons such as unemployment, running away from loan sharks or inability to care for the child. Majority of these children are institutionalised at initial stage to observe whether the parents will return to take the child home. Usually if the parents do not “claim” the child after three (3) years the CGC allow the child to remain in the institution especially if the child is commuting to school or initiate short-term foster care if the child is comfortable with the weekend foster care programs available at most institutions.

3. Abused and neglected children form the vast majority of children requiring protection and the common placement plan for them is institutional care be it infants or older children. The birth parents of these children are around and would not agree to place children in a family-based care as their status as parents will be undermined. Complex problems arise in forced separation of children where birth parents will demand their return and some cases will be litigated. It appears to be easier for the CGC to choose institutionalisation to justify their removal than to match the child with foster parents or adoptive parents, in which case the CGC has to prove that the birth parents are unfit to care for the child and that the prospective foster carers or adopters are best suited for the child.

4. Children with severe behavioural problems especially older children are also willingly placed in institutions specialised for disciplining them, by their birth parents or guardians. These children are said to be hard to place children because foster carers are unwilling to care for them and adopters usually do not wish to adopt older children what more when they are disobedient. I personally feel that it is a weak argument but social workers expressed that children with behavioural problems could cause the receiving families to breakdown so they refrain from choosing a family-based placement. Rather, if
their behaviour improves, they are placed in family group home so that they could become self-sufficient.

5. Disabled children and children with special needs sometimes required special care or treatment which cannot be provided by birth parents, they are willingly allowed to be placed in institutions which provide the special needs of the child. Discrimination of disabled children and their parents by the society cause some parents to place the children in institutions where they could maintain frequent contact. Foster parents capable of caring for disabled children are still in small numbers further justifying institutionalisation of these children.

6. Illegitimate children are children of unwed mothers. Very often teenage unwed mothers surrender their newborn either forcefully (by their birth parents) or willingly to private adoption agencies or individuals to be adopted domestically or internationally. The decision to give up the child is usually made before the child is born and soon after delivery the child is taken away from the birth mother to be raised by waiting adopters.

Disabled, illegitimate and institutionalised children are rarely adopted locally by Japanese who categorise these children as “unwanted” or “problematic”, who are consequently isolated by the society. The only opportunity for them to live in a family-based environment is through international adoption but it is unacceptable to Japanese society. The society rather these children institutionalised, abused and discriminated than to allow them to be raised by foreigners abroad. Unless the society’s perception changes to be more service orientated, adoption will remain the last choice.

(iii) Gender

The child’s gender should not play any important role in a placement decision making because it may amount to discrimination but the reality is adopters or even foster carers have preference of the gender of the child they wish to care for. It is a natural human reaction to have a preference to a particular gender. Almost all the social workers interviewed both in England and Osaka said that many adopters prefer cute little girls. A Director in Osaka said that her agency has more boys requiring family-based care but adopters prefer pretty girls. Some adopters choose girls because they belief that the grown up girl will look after them when they get older. One social worker said that foster parents too prefer girls because they are pretty and easy to look after whereas boys are difficult to manage especially if they are placed together with their equally demanding sibling.

(iv) Ethnicity, Culture and Background

The child’s ethnicity and cultural identity are also considered to be vital in placement decision-making in England. One social worker in a multi-racial, multi-lingual and multi-
religious community in London said that placement especially adoption is as far as possible made within the ethnic, religion and culture of the child. For example, a Black-African family will be searched in their jurisdiction or through inter-agency consortia before a Black-African child is placed with a White family. She regrets that there are very few adopters among African and White British although they are the majority ethnic in that area. Language is also given consideration but according to her many children growing in that area are bilingual (English and their native mother-tongue) and can be placed with English speaking families without much difficulties.

Another social worker in England said that “in identifying suitable or prospective adopters, again, the welfare checklist, child and their birth parents or families’ feelings and wishes are considered. Selections meetings are held to identify adopters who reflect the child’s race, ethnic, religion and language or willing to promote these as well appears to be in a position to meet the child’s identified needs. These are done through sharing of information, home visits, second opinion visit by managers (where necessary), pre-matching meetings and meeting with the medical advisor, teachers (depending on child’s age) and other professionals involved with the child”.

In Osaka, the background of the child is vital but not the ethnicity or cultural needs because the number of foreign children requiring protection is very small or none. Japanese are very conscious about “good family” so children of unwed mothers or single parent are usually “unwanted”. One social worker said that she tries to persuade adopters to adopt irrespective of the child’s background but adopters are adamant because they need their relatives’ acceptance, which will only be given to a child from a “good family”. In recent years children of unwed mothers are placed with foreign carers residing in Japan because their concern is the needs of child, not his or her background. Although, foster parents do have preference of a child they are encouraged by the CGC not be choosy in emergency and weekend placements.

(v) Behaviour and Emotion

Child’s behavior and emotion are also influential factors in placement decision-making. Children who are involved in drug and alcohol abuse, gang fights and crime are difficult to place in a family on a permanent basis. In England, children with behavioural and attachment problems are more likely to be placed on long-term foster care than adoption due to the high risk of disruption. These children are challenging and need carers who are better able to understand their needs and to seek professional support from the agency’s support resources. Although, such services are also available at request for adoptive parents, they lack the knowledge to access the services. One social worker explained that some agencies lack post-adoption support services causing difficulties for adopters. Another said
that in 1970s the basis placement plan for children was children’s home but now only children with severe behavioural problems are institutionalised.

In Osaka, there are specialised institutions to care for children with behavioural problems but very few foster carers are able to cope with disobedient children. Many children requiring protection in Osaka City are high school students who face severe behavioural problems. They seldom listen to their parents and are regarded as disobedient teenagers by teachers and the society. Placing them in a permanent family environment is deemed impossible given their age and uncontrollable attitude. Placing these children may lead to the breakdown of the foster carers’ family and inconvenience to the society, so they are isolated in institutions. One prospective adopter said that a girl aged two (2) is placed with her family with a view to adoption but the child has behavioural problems such as having tendencies of breaking items, screaming all the time causing neighbours to question the family, refuse to take bath or eat properly. Even after almost two years with her family, the child’s attitude has not changed and she never formed attachment with the family members causing her family to reconsider adopting the child.

One social worker said that adoption is normally disregarded when children have unmanageable behavior like stealing, addicted to smoking or alcohol and sexual tendencies because adoptive parents will be reluctant to contact the agency after adoption for fear of being separated from the child until they are seriously affected by child’s misbehavior. These children are usually placed in institutions where they are subjected to strict supervision. Another social worker expressed that Japanese parents do not consult others, not even their relatives, on their child’s upbringing. Placement of difficult to handle children with adoptive parents with the current state of lack of post-adoption support will cause disruption and breakdown of the adoptive family.

(vi) Special Needs

A child’s special needs or disabilities do influence a placement decision making and so is evidence of abuse such as physical, mental or sexual. In England, one social worker said that adoption is almost impossible for children whose parent suffer from serious mental illness because of the risk of the child inheriting the same sickness. Children who have suffered severe abuse or neglect especially the older ones are seldom adopted because they usually cannot form attachment or trust in other adults. Short or long term foster care is the alternate plan if suitable carers with abilities to handle challenge are found said one social worker in London. Some foster carers are willing to foster children with special medical needs or disabilities if proper support services and respite care is made available by the placing agency. In Osaka, the children with special needs are often institutionalised unless their birth parents can manage with minimal support from the CGC. One social worker said
that due to lack of support services available at present children with disabilities and special
needs are not placed with foster parents.

(vii) Child’s Wishes

Hearing the child’s voice is becoming important in all child related decisions. In
England, the children are not asked to make a decision on where or with whom they would
like to live but their views are taken into account before a placement choice is made. The
child’s age plays a vital part in listening to them because the older they are the better it
seems their understanding of a decision affecting them. Importantly, the social worker must
show that the child participated in the decision-making therefore he or she has to explain to
the children on why they are in care and why a certain plan is consider suitable for them so
that they are not caught by surprise when eventually the placement takes place.

The child’s relationship with birth family or other relatives and their contact
frequency with the child are observed the child’s view on it is often sought. Naturally, many
children would prefer to live with their parents, when they are asked but it might not be in
the child’s welfare, for example in severe abuse or neglect cases. One social worker said that
older children who have strong attachment with their parents or grandparents do not wish to
be adopted for fear of being unable to see them again. Another said that younger children
seldom understand why they cannot live with their parents but with love and affection from
the new family, they will soon get adjusted.

In Japan, the law requires the wishes of a child who is 15 years old and above to be
considered in any decision affecting him or her. In practice, small children are often placed
without their view’s being taken into account. One foster parent related that a five (5) year
old boy placed with her family on short-term fostering claims himself to be a child of the
family and refused to have contact with his birth mother who has intention to take him home.
The child who had to steal food to feed him as the mother neglected him feels safer and
comfortable in the company of the foster family that has no intention to adopt him. Whether
the CGC will consider his wishes and persuade the family to foster him on a long-term basis
or send him to an institution to facilitate contact with the birth mother is yet to be seen.

For adoption, especially the wishes children aged less than fifteen (15) are seldom
given importance. One foster parent shared that she had to wait for three (3) long years for
the approval of the CGC to file for adoption in the court although from the very beginning
the boy of 12 years old, whom she was fostering at that time indicated that he wished to be
adopted by the family. One social worker said that wishes of children are difficult to be
considered in sibling group, when children have differing needs. In a case she cited that a
sister and brother wish to stay with foster parents but the brother could not due to the need
to undergo prolonged medical treatment. So the sister was placed with foster parents while
the brother at an institution providing the treatment. One Director complained that the CGC is more concerned about parents’ wishes than the child’s view in the selection of alternative placement. One social worker said that an investigating officer will ask the child of his or her view but he is not sure how influential the child’s view is because at the end of the day, the committee decides what is best for the child based on a variety of facts and matters.

(viii) Future and Development

The list of the factors considered as being related to the child is ever developing and never ending because all these factors are somehow justified as being in the welfare of the child. The child’s natural development and future are among the factors considered in a placement decision-making in Japan. The MHLW officer said in her 21 years of experience as a child welfare officer the future of the child is the main consideration in a placement decision-making. This is supported by the Osaka Prefecture Chuo Agency whose social worker confirmed that the future of the child is the major consideration in a placement choice.34

(b) Factors related to birth family

Generally parent-child separation is deemed to be detrimental to the child’s welfare so even after an emergency removal reunification with birth parents is the priority. Family reunification is thus prevalent as the first option in both England and Osaka. The key issue in reunification is birth parents’ ability to respond appropriately to their child’s needs. This includes their capabilities to keep the child safe from harm and nurture the growth of the child. In England if reunification is viewed as impossible due to birth parents uncooperative attitude or is against the child’s welfare, the agency has to call for a family conference to rule out all family members and relatives. The capabilities and capacity of all family members, extended family and close relatives are evaluated before a kinship placement can be ruled out. In Osaka, the views of persons having relationship are sought but it is not a mandatory process because parental consent is paramount.

(i) Parental Agreement to Placement

In London, local authorities are encouraged to involve parents in decision-making concerning their children’s placement even when the parents were found to have abused their children. But, if they unreasonably refuse to agree to placement proposed by the agency, the matter is taken to the court for a final decision on the placement where the court will apply the child’s welfare as the test.

34 This applies to all the other five (5) cities in Osaka Prefecture because the Chuo Agency coordinates and regulates the all the CGC in Osaka Prefecture.
In Osaka, birth parents lose their say over whether their child can be removed from foster care when the placement is done with the permission of a family court. However, in cases where a birth parent initially gave the consent for foster care or adoption, the parent can still revoke it under Article 27 of the CWA, which simply spells out the process for gaining approval from child welfare officials. It is apparent that parental right is a barrier to the placement of a child who needs care in a family setting. It appears be a reason for the reluctance of the officers at the CGC to offer the children for foster or adoptive care.

The agencies’ decision on what is best for the child depends largely on parental consent to placement. For example if the birth parents agree to foster care placement, agency will proceed to find a suitable foster parent for the child. If they disagree, the child will be placed in the institution to facilitate contact with the birth parents, which seldom takes place. One social worker explained that it is difficult to place children in foster care without parental agreement because the parents will cause problems to the foster family. The primary preference for birth parents generally is to place their children in institution so that they could take back their children when they are able to do so.

One Director said that many birth parents change their mind after giving consent to foster care so it is always safer for social workers to place the child in institution and recommend weekend fostering until the birth parents make a final decision. One social worker in Osaka CGC said that placement made without parental consent has high risk because parents will take back the child in the future, cause problems when they realise that the child is living with foster parents and complain when they find that the child form attachment with someone at the institution. The best is according to her to obtain birth parents’ consent before determining a placement plan for the child.

Involving the parents in decision making (the UK) and relying on parents (Japan) on decision-making are two different and conflicting concepts. If the wishes of the parents are in accordance with the child’s welfare then the agency has to give due consideration but if it is otherwise: based on a selfish or egoistic context it has to be disregarded. And, a plan suitable for the child’s welfare must be made without much delay with the approval of the family court. Restriction of parental rights is necessary but that stance is taken by the national government, the Director of the CGC must take initiatives to convince the parents or pursue a court proceeding to safeguard the welfare of the child.

(ii) Contact

The importance of having contact with birth parents or extended family members is vital if it serves the welfare of the child. In England, birth parents’ wish to have continued contact is respected but only accommodated if it is the child's welfare. One social worker said that some foster carers accommodate contact between siblings when they stay apart but
others do not. The agency cannot insist for the continuity of contact but can persuade foster carers by providing support services to facilitate contact. Contact among siblings, she said become rather difficult or even impossible when one is adopted and the adoptive parents are not agreeable to allow contact with the other siblings or birth parents.

In Osaka on the other hand, when birth parents show interest to have contact with the child even if it is only once a year agencies place the child in institution that facilitates meetings at its premises in the supervision of its staffs. This according to one senior social worker is to prevent birth parents from giving surprise visits to foster parent’s home. It seems there have been incidents of quarrels where birth parents had stormed into foster parent’s residence to create havoc or simply to borrow money for their personal use. One social worker at an institution said that some children behave strangely after having had contacts with but it is beyond his powers to restrain parental visits so long as the child remains in the institution. He is only able to either restrict or monitors the visits. If the child wishes to have visits with parents or grandparents for example, adoption is not pursued because the chances of not having contacts after adoption are higher.

(iii) Sibling group

Almost all the agencies interviewed said they try to place siblings together due to the attachment they have towards each other but age and individual needs play more pertinent role to keeping the siblings together. In England, two or more social workers interviewed hold strong views that siblings should not be separated unless one of them have special needs which could not be supported by foster carers. They agreed that foster care and adoption often separates a child from existing or future siblings because foster carers or adopters have their preference of the number of children they wish to care or adopt and that has to be respected. In Osaka, social workers are unanimous that keeping siblings together amount to preserving children familial ties and identity. Therefore, basically the plan for siblings is institutional care unless foster parents are willing to care for them together, which according to one social worker is a rare happening. She claims that it is easier to place them in institutions where each child’s individual needs can be taken into account by the institutions staffs.

(iv) Extended Family Members

In England especially kinship care is becoming popular due to the importance placed by agencies on consulting extended family members when reunification is unsuccessful. One social worker in London said that all the extended family members who have attachment or established significant relationship with the child will be contacted and consulted on their wishes and ability to care for the child. Only after all the immediate family members are
ruled out will the agency select another plan to place the child. The older children’s wish to be cared by a particular family member is given preference especially if the child is facing behavioural problems or has suffered significant harm. However, one social worker pointed out that extended family members are not entitled to the same support services available for foster carers. This refrain many from caring for the children.

In Osaka too, familial care is given greater importance in placement decision making though involvement of extended family in childcare is less with the establishment of neutral family. Grandparents are especially consulted by the CGC when birth parents have gone missing or when there is abuse by a step-parent. Osaka City seems to rely heavily on grandparents’ wishes on the child’s placement. This is because there have been incidents where birth parents emerged after 2-3 years and question the CGC if it had allowed the child to be fostered. The CGC could justify their actions as reasonable if the grandparents had willingly consented. Financial support to extended family is also limited and much lesser than that of foster carers. One social worker expressed that grandparents are very possessive of their grandchildren and wish to raise them by themselves but usually their financial circumstances does not permit it. Moreover, older children who have serious problems could not be placed with elderly couple who cannot cope with the challenge. One Director explained that even though an old couple wished to care for their 5 years old granddaughter, they felt that she should be adopted by a young couple who could best serve the child’s needs, so the child was offered for adoption.

(c) Other related factors

There are many other factors determining a placement decision-making.

(i) Agencies’ Policies

Policies of the agencies influence a placement decision. Agencies both in England and Osaka have wide variation in policies for child protection. Most of the agencies interviewed prefer to place children requiring protection in a family-based environment. In England, therefore the long-term placement option is between adoption and long-term foster care, but never institutionalisation. In Osaka, institutionalisation is the first option even though the CGC claim to prefer foster care with a view to adoption. The Quasi-private agencies and private agencies interviewed in Osaka strongly advocate adoption and they feel adoption is the suitable option for most of the children requiring protection. However, the CGC which decides the best placement for the child only allows adoption in selected cases. One of the quasi-public agency’s Director expressed that abused children need carers who are affectionate not necessarily experts to forget their traumatic past and a carefully identified adopter will serve the welfare of the child. Some agencies in Osaka consider the safety of the child as priority and place them in institution where parental involvement could be
monitored or restricted. Some agencies allow older children to be independent by encouraging family care unit while others offer orphans for adoption but not those who have been abandoned.

(ii) Foster Parents Availability

Availability of foster parents and adopters who are suitable to care for the particular child is another vital factor determining placement decision. In England, with the introduction of the Adoption Register that has the names of approved adopters and children requiring adoption, the process of matching is faster. The only problem is when a particular minority ethnic group child requires family-based care and cares from that ethnic is not available in the particular geographical area of the agency. This difficulty sometimes forces the social worker to place the child outside their local community or comprise placing them within their ethnic or cultural needs. In Osaka, placement is much lesser than the number of available foster carers. Many social workers explained that although many foster carers have been approved they seldom take in children when contacted citing their family related excuses such as they have to care for an elderly family member, they have themselves aged or fallen ill or unable to care for infants or older children. The fact remains that the available pool of approved foster carers have not be utilised efficiently by the CGC. Otherwise, many children requiring placement will be in a family-based environment rather than high risk institutions.

(iii) Budget Constraints

Insufficiency of budget is yet another factor influencing placement decision-making. Most of the agencies interviewed expressed regret that they have to work under a limited or constrained financial plan. In England, local placement is given priority to save costs unless the welfare of the child requires placement away from the local community. This is because inter-agency placement requires payment of fees that depends on the length of time and type of placement as well as support services required for the child and his or her birth family. In Osaka too, the agencies including the CGC is constrained financially to provide the best placement and support for the child. Many social workers expressed disappointment that a large amount of money is invested in elderly protection compared to child protection. They have to work within their agency’s financial means to choose a placement that serves the child’s welfare. This to me does not hold water because placing a child in the institution costs more money than placing the child with foster carers. It is undeniably cheaper to place children in foster care than in institutions even with the increased allowance for foster parents. With the new fostering regulation in 2001, the payment to specialist foster parents

35 A category of foster parents introduced to care for abused and neglected children.
tripled from 29,000yen to 90,000yen per month but this amount could be one third or fourth of the average salary of institutional care staff. The average cost for maintaining a child in the institution is about 230,000 to 250,000yen per month.

(iv) Fostering Allowances

Fostering allowances seem to influence foster carers in England to come forward to offer their time and energy to care for children in need. Foster carers receive ongoing financial support from their fostering agency including payment cover the daily expenses and to look after the children under their care and additional payment for child’s holidays. Foster carers are seen as professionals in child caring and given tax exemption on the first £10,000 they earn annually. There is a recommended minimum weekly allowance for foster care but they may earn more depending on the special needs of a child. The weekly rates in London are £126 (babies), £129 (pre-primary), £144 (Primary), £163 (secondary aged 11-15) and £191 (secondary aged 16-17). One social worker said that due to the fostering allowance, many foster carers choose to remain as long-term foster carers to adopting the child, which means they will be financially burdened to care for the child. Shortage of financial support that differs between the agencies may affect the permanency plan for the child.

In Osaka, foster parents have been treated as volunteer in the past and will be so for mainstream foster parents (youiku satooya) in the future. Long-term fostering is considered as an occupation for the house wives in Osaka who give up their jobs to care for their family. Therefore, they have to be adequately paid for their services. Foster care allowance ends when the child is adopted and no allowance are generally available for adopters. This negates many from becoming adopters. One social worker explained that it is rather beneficial, financially for a foster family to continue long-term foster care until the child reaches 18 years old before adopting him or her. Adult adoption is not an unacceptable trend in Japan and rather easy as birth parents’ objection will not influence its outcome.

(v) Support Services

The availability of post-placement support services is not considered as an influential factor by many social workers in determining a suitable placement that best serves the child welfare in England and Osaka. One social worker in England said that the needs of the child and the carers may change and support depends on the kind of resources available at the agency to assist the foster carers and adopters to care for the child. Another said that expert advice or counseling is not necessary from the very beginning of a placement. The child’s ability to adjust to the placement and carers’ capacity to care are more important than involvement of specialist. As foster carers have been deemed as volunteers and adopters as adopting for their family lineage, social workers do not concern themselves with the
availability of efficient support services in Osaka, said one Director. The foster carers have always be left to fend against their problems.

(vi) Placement Availability
Availability of care is a relevant factor because the type of placement setting should match the child’s needs. A placement that confers stability and security to the child is considered best, be it family-based or institutionalisation. One scholar suggests, “Children who are removed from home are at risk for psychological, social, and even physical harm. Thus, it is important to consider not only the child’s quality of life at home, but the less than ideal quality of life found in out-of-home care”. The quality of care is given the least consideration even though many research show that institutions are poorly maintained and not conducive for young children. The risk of abuse is in both the institution and foster care should be considered but none of the social workers interviewed in Osaka expressed their concern on this issue.

(vii) Social Workers’ Skill
The law requires the CGC to assess the risk and need of the child to decide the best possible care plan for the child. Given the result of the assessment requires moving the child from the birth parents or guardian, child social worker of the centre has to find the most appropriate resource to meet the needs of the child, whether in institutional care or in foster home in accordance with the care plan. Why then these children are placed primarily in institutional care than foster care? Why adoption is the last resort? Child experts blamed that the lack of expertise in staffs at these centers to be one of the many reasons for poor facilities and decision making on behalf of the children. Fumiaki Isogae,36 a lawyer claims, “recruiting staffs is the responsibility of the prefectural or municipal governments but until 10 years ago, civil servants from waterworks or tax divisions were routinely assigned to child guidance centers despite their lack of expertise. The case workers are not ignorant of the law but their strategy requires polishing”.

Although the CWA sets out qualifications for holding directorships at the facilities and requires staff engaged in counseling and case investigation to be trained as social workers, enforcement is lax. Tsuzaki says, “Japan has no equivalent of British state social work system. No local authority social work department exists in the strict sense of the term if scrutinized by the professionals or academics from Britain. The local authority officers taking social work role are often unprofessional public employees who prefer putting away

these children into institutions than placing them with foster parents." Yuzawa pointed out that adopters deal directly with private agency and prefer not to go through the CGC because it is a lengthy process with cumbersome procedures to comply with and takes a long time due to unskilled staffs.

Only about 9% of children requiring care are entrusted with foster parents. In 2007, the number of children placed with foster parents was 3,633 when there were about 7,882 registered foster parents nationwide. Azuma Sato, an official at the Ministry of Health, Labour and Welfare’s Equal Employment, Children and Families Bureau says that the low rate of foster care is because “the child guidance center assesses many children as developmentally unsuitable for foster care”. Tsuzaki claims that the remaining registered foster parents seem to have been waiting for the best candidate child of their favour to make them their heir through adoption. Strictly speaking this type of registered foster parents could not be treated as foster parents in Anglo-American, even Korean sense of the term.

One reason for the CGCs’ officers’ reluctance to use foster placement or adoption is because of its complicated procedures. It literally means foster placement and adoption demands more time, energy and professionalism from the officers than putting away them in institutional care. Indeed, late last year, some 70 children found themselves wait-listed for temporary care in Tokyo child-guidance facilities, according to the then Tokyo Metropolitan Government official Keiko Kimura. Kimura stressed that any child requiring emergency attention gained entry, and most children on the waiting list were low-priority cases. However, given all their other responsibilities, CGCs do not have a lot of room to maneuver.

3.4 Placement Options

Should a placement option for the child be an ideal plan or a less-damaging plan? Can both the plans justified by relying on the child’s welfare principle? Rankin said that the welfare of the child standard “should be implemented every time decisions about the placement of children are made. The question that arises is what is in the welfare of the child: the parental home or some alternative form of care. If it is foster placement, it has to be established what kind of foster home will meet the child’s needs. If it is institutional care, the particular kind of institution is to be selected. It is a complicated process and has to be based on objective, valid criteria which are perhaps one of the serious problems regarding placements”. But, he wisely noted that “it is often the experience of the social worker that the

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http://search.japantimes.co.jp/cgi-bin/nn20070321f1.html
available option is often not the best but the best from what is available”.

The best placement choice can only be made upon a substantial assessment of the child’s welfare. Triseliotis offers that assessments are not objective records; rather they present the analysis of data provided by experts such as the social worker, the medical doctor and perhaps a psychologist or psychiatrist. A good assessment of the child needs to be completed before he or she is placed and essential for the selection of a home that best meets these needs41. Therefore, public authorities and private adoption agencies must individually assess the child and plan the best placement option to meet the unique needs of the child.

3.4.1 Institutional care as the first option

In London, institutional care is never considered as the best option for the child unless the child has very special needs, requires ongoing medical treatment or significant disabilities where family placement is not appropriate. One social worker expressed concern on the quality of care and the risk of abuse in institutions and relates that her first choice of placement had always been foster care if adoption is not suitable.

The latest statistics in England show that there were 64,400 looked after children as at 31 March 2010, an increase of 6% from 2009 and an increase of 7% since 2006. 27,800 children started to be looked after during the year ending 31.3.2010. This is an increase of 8% from the year ending 31.3.2009 and 13% the year ending 31.3.2006. Of these children 9,500 are classed as being taken into care (for who alternative placement is required), 25,100 children ceased to be looked after during the year ending 31.3.2010. This is similar to the figure in 2009 (25,000). Overall, the main reason why social care services first engaged with children who started to be looked after during the year was because of abuse or neglect (52%). This percentage has increased since 2009. 73% of children who were looked after at 31.3.2010 were in a foster placement. There were 2,300 children placed for adoption at 31.3.2010.

In Osaka, all the agencies interviewed expressed that although they are aware that family-based placement best serves the welfare of the child but it has become as a “standard” plan to choose institutions because foster care can easily disrupt and the whole process of a new placement choice has to be commenced. One social worker regrettably stated that birth parents do not easily agree to a foster placement; one of the reasons being they are ashamed to accept the fact that another family is caring for their children in the same neighbourhood. Also, there are some institutions that have facilities on family-based approach where participation of volunteers and people from the wide community with varied activities to make the life of the child more meaningful.

Safety of the child is another factor as to why an institution is made the primary placement. In child abuse and neglect cases, the child has to be removed from abusive placement and place in a place where contact could be temporarily barred or if necessary for the child, supervised. One social worker explained that many abused children are initially angry or terrified of their parents but eventually asked to see them. The officer from the Ministry of Health Labour and Welfare informed that foster parents in Osaka do not wish to care for infants (age two and below) resulting them being placed in infant homes and thereafter being transferred to child protection institutions where they sometimes spend all their childhood.

Institutions must have at least thirty (30) children at a time to obtain financial and other forms of support from the local government. This requires the institution to keep as many children as possible in their premises to gain access to the government subsidy. Although, the institutions stated that they encourage weekend foster care system, none indicated clear intention to have the children fostered on a long-term basis or recommend adoption. As many of the private institutions have contributed enormously in caring for street children after the Second World War, the government feels indebted to keep them operating and long-term institutionalisation is not discouraged. The welfare of the institution takes precedence over the welfare of the children requiring protection.

What is certain is that the children in institutional care are well fed, well clothed and fairly funded for education. But, what is lacking is a family environment, a sense of belonging and security in life. Until the age of eighteen (18) they will be taken care at the institution but after eighteen (18), they are on their own in the society that cares less about their feelings and well-being. Is the placement in institutional care in the welfare of the children? Roger Goodman, a British social anthropologist, after researching Japan’s child welfare policy and practice in a yearlong fieldwork notes that children in Japanese State care is one of the most disadvantaged and most recently appeared minority group of the socially excluded population in Japan\textsuperscript{42}.

### 3.4.2 Foster Care as the Second Choice

In England, one social worker explained that her agency’s foster carers usually can offer to care for children of specific age groups and sometimes genders, some can care for special needs better than others so this is considered when placing children. In addition, very often foster care placement is undertaken in an emergency situation so the agency has a database of carers to quickly identify who has space and can meet needs. Also, the agency has youth carers who specifically take older children often teenagers who may present a number of challenges. It is mandatory for placing agencies to provide support services to the

foster family and the child. Almost all the agencies in England are competing to provide the best services to their foster carers and require the voluntary agencies to do so to advance foster care system in emergency cases, as short-term foster care and long-term foster care. This is due to the common acceptance that family-based care from the very beginning of the child being separated from his or her parents cause less damage to the growth of the child.

The Ikeda CGC explained that there is a severe shortage of foster parents in Ikeda. Many of the couples who are interested to become foster parents are childless and wish to adopt a child eventually. They do not appreciate the fact that foster care is a system that is intended to serve the welfare of the child. Couples whose aim is to adopt because they cannot have children are turned down by this CGC as the policy of Ikeda CGC is to create a family for the child and not to provide a child for the family. Foster parents are also very choosy of the children they wish to care for. Rather than considering the needs of the child requiring protection, many foster parents have preference of children they wish to care for: many wish to care for a boy if they do not have one, many more wish only to foster girls, some enquiry into the family history and others reluctant if the child has been abused.

On the other hand, some of the foster parents I spoke to complain that the CGC does not render any support once a placement is made. They have to solve their problems on their own or by consulting other foster carers. One foster father said that a seventeen (17) year old high school girl has been staying with his family for half a year now but she never talks unless she needs something. The CGC did not tell him why she needs fostering and how his family could help her with whatever problems she encountered in the past. He parents apparently fostered a total of 20 children over a period of 15 years and some of the children had complex problems. One boy broke many things in their house whenever he got angry and even stole money at their home. His mother suffered severe depression due to the uncontrollable behaviour of the foster children but the CGC did not support them in any way. After placement, the CGC regards its duties discharged leaving the foster family and the child to cope with their miseries.

It is rather common for foster care to disrupt. In order to avoid unnecessary disruption due to inability of the foster carers to handle the child, some agencies have started to offer compulsory training for foster parents before children are placed with them. Another reason is lack of post-placement support services by the CGC. Post-placement support in the form of counseling, mediation and financial assistance is limited to foster parents and the child. The child may still be under trauma of being separated from his or her family and the foster parents might not be able handle stress of caring for a stranger with complex needs. The foster parents I spoke to indicate that once a child is placed they have to do everything within their means to care for the child until the child is removed. In those days, one foster parent has many difficulties but she never received proper support from the CGC so now
after fostering for 20 years she has decided to offer support in terms of advice to young foster carers in Ikeda City.

3.4.3 Adoption as the Last Resort

Adoption severs legal relationship between the child and the birth family permanently. Due to its severity, social workers must be very careful in selecting adoption as a placement option for a child. When the choice is between allowing the child to drift in the institution and adoption, which should be presumed to serve the welfare of the child? The UK government has opted for a radical approach in making adoption as a placement option for children looked after and this approach though not without criticism has created homes for many children who would have otherwise spent their childhood in institutions. This research identified that most of the local authorities in London have policies to encourage adoption for looked after children although academic research shows that adoption is not a feasible solution for older children and children with severe behavioural problems. Adoption appears to be given priority in light of the UK government policy to reduce the number of children looked after in institutions. These agencies are required to rule out adoption before other forms of placements are chosen. They have varied post-adoption support services to tackle problems and to reduce disruptions. Adopters are said to have less advantage over support services compared to long-term foster carers but the agencies help where possible to make adoption successful. The intention and interest on the part of the agencies to arrange adoption by agencies even for ‘hard to place children’ increases opportunities for more children to live in a family setting.

In contrast, in Japan adoption remains as the last ‘resort’. Almost all of the agencies interviewed said that a family-based environment is their vision for a child requiring protection but it is difficult to achieve due to limited resources. Most of the social workers interviewed regrettably expressed that adoption remains at a very low rate in Japan although it is becoming the main form of childcare in other industrial countries. One Director explained that prospective adopters are very selective and set many condition on the type of child they wish to adopt. For instance, 8% of the adoptive parents want to adopt a girl but her agency has many boys to offer for adoption. Other examples are couples who wish to be looked after in their old age by the adoptive child so they demand for someone from a good family.

Children placed at the institution are said to form very close relationship with the staffs and are attached to one another. This appears to be another reason why foster care or adoption becomes difficult. One prospective adopter, with whom a child of two years old has been placed under foster care system with a view to adoption, claims that the child will cry non-stop for hours saying she wants to go back to “sister”. It took her sometime to understand that the little girl was missing her caretakers at the institution. She is now
reconsidering adoption because the child has not changed much since her placement and her
mischievous behaviour has caused her biological daughter to distance herself from her.

One social worker said that abandoned infants are placed for at least for two years at
an institution to observe their development and health deficiency. It is because Japanese
adopters do not like to adopt a disabled child who will be bullied in school and not acceptable
by relatives. There have been incidents of adopters returning the child to the CGC after they
discover that the child has disabilities. Parents generally cannot face the stress of caring for
unrelated children what more if the child is disabled. Post adoption support services are not
well advanced to help children with behavioural problems.

3.4.4 Family Group Home

In order to reduce the number of older children living in institutions and make the
older children leaving care to be self-reliant a system called small scale family group home
has been introduced by the MHLW and is being implemented by CGC with the cooperation of
child protective institutions, private organizations and volunteers from the community. A
group of five to six children are placed under the care of three carers in a house to create a
family-like environment. Children are taught to be independent and share household chores.
This system is aimed at improving the quality of care for older children aged between fifteen
to twenty years old and is gaining popularity among institutions as well. Many of the
children subjected to abuse and neglect are unable to trust adults therefore living on their
own give them self-confidence to face challenges in life. This system is perceived as an
alternative to big-scale institutionalisation and if handled well will benefit older children to
live in a family setting and ultimately cause fewer problems when the children leave care.

4. Conclusion

Placement decision-making is a random process in Japan. The social workers are
doubtful of the best actions for the child. So rather than taking what they belief as a drastic
action of placing child for adoption or a more modest approach of settling the child with
foster parents, both of which involves tedious process, time and resources, the easiest route is
chosen, that is to sent the child to ever ready child institutions. No one, including the birth
parents will question the social workers decision to place the child in an institution because
the child is deemed to be “looked after” by the State. And, that is considered to be in the
welfare of the child. The justification for institutionalisation of children requiring protection
is that rather than to allow the child to roam about the streets as a lone ranger or face death
in his or her home due to parental neglect or abuse, living in full facilitated institution is
better for them. Very stereotypical basis, largely unrelated to individual child's needs.
Lack of definition and guidelines on what constitutes a child’s welfare answers the question of why social workers are unable to handle placement issues efficiently. The laws provide no limits or guidance on the decision-making. No standard framework on assessment of the child’s welfare is available as a guide for the social worker. The local governments vested with the duties to coordinate child protection services rely heavily on the CGC to enact rules and regulation on the placement decision making for children requiring placement but the CGCs do not have specific guidelines for its social workers or other decision-makers. Having sketchy internal manuals, leaning from seniors or acting from past experience which is in practice at present will not guarantee a best-suited placement decision for the child requiring protection. A few of the social workers interviewed expressed that a clear and specific guideline on the factors to be considered in determining a child’s welfare will be helpful for a speedy and righteous decision-making.

Lack of experience, training and supervision to make child’s welfare decision is yet another reason for the disparity in placement plans. More so a clear guideline is required as government officer who rotate as child welfare officers lack the necessary expertise to make appropriate decisions for children requiring protection. Studies have found that a high percentage of the information gathered by caseworkers during the intake interview was not related to the objective of reaching a placement decision. The question asked may or may not be appropriate to gather information relevant to a particular case. A welfare checklist similar to that of the UK would definitely be a good guide to the social workers who lack necessary experience or training to handle child placement. General briefing or discussion in a team to make a placement decision that is in practice now in Osaka, may not serve the child’s welfare as crucial information might have been omitted by unskilled social workers. Proposals or recommendations by team managers or supervisors are not based on standard criteria but according to their personal experience or exchange of information between the CGCs. Standard form criteria would enhance decision making capabilities of the social workers and guarantee consistency in decision making.

There is no wide variability in the factors determining a placement choice for children requiring protection in England and Osaka. Institutional care appears to be generally the first placement option in Osaka but it is a temporary measure and the least resort of permanency planning in England. Foster care becomes the first option in emergency situations and a second permanency choice in England whereas as a second in all situations in Osaka. Adoption is gaining preference and is becoming the first permanency placement choice in England but the last resort or unpopular choice in Osaka. Due to the low rate of adoption, Osaka has opted for small-scale group home to encourage older children to be self-reliant. One common problem jilting the care placement for children requiring protection is parental consent. I think that the reluctance on the part of the social workers or the CGC in
Osaka to override parental objection is the main factor for institutionalisation of children requiring protection in Japan. Knowing fairly well that parental objection might be unreasonable many decisions are made internally by the placement team than obtaining the approval of the family court. And, there is no system to check or monitor how child’s welfare decisions are made. It is an in-house affair rarely subjected to judicial scrutiny. The MHLW has to prescribe a policy to restrict parental authority or vest the CGC with more powers to be children-friendly and let go its current role of being parent-friendly.

Wide variability exists in application or adherence to the welfare of the child principle in England and Osaka. The weight or standard of the welfare of child decision making varies widely. In England, the child’s welfare is given paramount consideration in a placement choice but in Osaka, it ranges between a primary, the paramount or a mere consideration. Parental wishes and consent appears to be the paramount consideration in almost all placement decision making impacting children requiring protection to be placed permanently in institutions. Had the child’s welfare been given the paramount consideration there will be more children living with foster parents and adoptive parents. Parental objection had to be vetoed to give paramountcy to the child's welfare. In certain cases, the Chief of the CGC litigated parental objection to a placement proposed by the CGC but almost all the cases in the family court concern placement in institution rather than family-based care. An ideal remedy is in achieving consistency on the application of the welfare of the child principle by establishing an assessment guideline in the form of a welfare checklist.

It is obvious that the main problem in placement of children requiring protection is not the shortage of foster parents but it revolve between (1) consent of the birth parent and (2) assessment of “suitability” of placement by social welfare officers. The placement of children from the institutional care into the foster care or for adoption depends largely on the ability and qualification of the person in charge of each child at the CGC. They are usually administrative staffs of governmental department who are normally transferred from one department to another and assigned to a post for about three years. One exception is the Osaka Prefecture where the CGCs staffs are “professionals” having a degree in social work or psychology. They are usually transferred to another CGC on a three years rotation within the prefecture and they normally establish close ties with the foster parents and foster children. Even then the rate of foster care and adoption remains low. Children will not be placed for adoption because it is another tedious process that requires assessment of the welfare of the child and the suitability of the adoptive parents. Both foster care and adoption also need financial and physiological supports and after care support by social workers to avoid cases of abuse. If the perception of the social workers and the CGC on welfare of the children and foster care or adoption does not change, their incompetence in decision making will affect the already declining rate of family–based placements.
APPENDIX

Appendix A

I. Legislation:
4. A Management Guidelines for Child Guidance Centers
5. Children Act 1989
6. Children Act 2004
7. Adoption and Children Act 2002
8. The Protection of Children Act 1999
10. Adoption Agencies Regulations 2005
11. Adoption (Intercountry Aspects) Act 1999,
12. Adoptions with a Foreign Element Regulations 2005

II. International Instrument:

Appendix B
Local Authorities & Agencies Researched

I. England
1. Newham Council (Public)
2. Luton Council (Public)
3. Central Bedfordshire County Council (Public)
4. St. Francis’ Children’s Society (Private)
5. British Association of Fostering and Adoption (Private)
6. The UK Adoption (Private)

II. Osaka
1. Osaka Prefectural Child Guidance Center (Chuo) (Public)
2. Ikeda Child Guidance Center (Public)
3. Suita Child Guidance Center (Public)
4. Osaka City Child Guidance Center (Public)
5. International Social Service of Japan (Private)
6. Society for the Promotion of Family, Osaka Office (Private)
7. Society for the Promotion of Family, Kobe Office (Private)
8. Private Individual: Mrs. A (Private)
9. Suijorinpokan Child Institutional Care (Private)
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COURTS AND ADOPTION AGENCIES AS GUARDIANS OF WELFARE OF THE CHILD PRINCIPLE:
A JAPAN-UK COMPARISON

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