

**TRANSCRIPT OF
FAMILY JUSTICE COUNCIL 9TH ANNUAL DEBATE
Tuesday, 24th November 2015**

Motion: “Adoption without parental consent is wrong in principle”

BETWEEN:

JM: The Rt Hon Sir James Munby
LT: Louise Tickle
CFG: Dr Claire Fenton-Glynn
MN: Sir Martin Narey
JS: Professor Julie Selwyn

JM: Thank you very much. I am the President. I am also more appropriately for today the Chairman of the Family Justice Council. We have an annual debate. Could I make clear that the topic of the debate and the slant in the topic for the debate does not represent the policy of the Family Justice Council? You should not assume it represents my views. It is simply a more than usually provocative topic to get an important debate going. The format follows the traditional lines. There will be speakers for and against the motion and that will take about an hour. The speakers have each been asked to speak for between 12 and 15 minutes and then once we have finished that, there will be the general discussion which Paula has mentioned.

We have a very distinguished and very interesting line up. Louise Tickle who is going to speaking for the motion is a journalist, a freelance, I think I'm right in saying, who has written recently, in particular in *The Guardian*, a number of very thoughtful, lengthy pieces about the family justice system where she gives a warts and all picture neither completely positive nor completely negative; just the kind of informed discussion we all want. Dr Claire Fenton-Glynn who is also speaking for the motion is a very distinguished academic writer. She recently published a very important book which contains a comparative analysis of the law and practice in matters of adoption across the whole of Europe and more recently she was the author of a report put together for and commissioned by the relevant committee of the European Parliament as a prelude to the recent visit to this country of a delegation of MEPs who were examining the English adoption system.

Speaking against the motion – and perhaps I should make this clear: you should not assume that the speakers are necessarily speaking in accordance with their own private or professional views on the matter, the purpose is simply to generate debate – Sir Martin Narey has had an immensely distinguished career in the public service. He began in relation to prisons where he became the head of the prison service. He then had a very

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distinguished career in Barnardo's. He was then retained, perhaps that is the right word, by *The Times* newspaper to do a very interesting piece of research into the adoption system and the care system and he is now the leader, the head... forgive me, I can't remember your precise title.

MN: Chair.

JM: Chair. Chair of the Adoption Leadership Board, so he is in a sense, if he will forgive me for saying so, the principal public cheerleader of that body. Professor Julie Selwyn is another academic who has many, many, many years of academic research and investigation behind her. She comes from the University of Bristol (Dr Fenton-Glynn is Cambridge and Kings College down the road). Professor Selwyn is professor and director of the Hadley Centre for Adoption and Foster Care Studies in the University of Bristol. So we have a fine line up of academics, practical people, if I am permitted to say so, and journalists. So, without more ado: Louise, 12 minutes or so in support of the motion that adoption without parental consent is wrong in principle.

LT: Thank you very much. This is obviously a very live and very polarised debate. The airways are full of it. The newspapers are full of it and they're full of it from every side and I wanted to start off by saying that reporting the family courts in care proceedings is without any doubt in 15 years as a journalist the very hardest reporting I've ever done. It's difficult and it's scary. I have had sleepless nights on many occasions the day before an article that I had written has gone up and they take me longer to write than anything else I do because I know how very important it is to everybody who has talked to me that their views are represented accurately and I know how much weight is given to each particular nuance that is included in an article.

I wanted to go back a little bit to show just how long in recent history things have been so febrile in this area around adoption. So, we've got Blair talking about how important adoption was to his father. Quite a few years later we've got Michael Gove who was adopted himself. Then we have a slew of articles talking about social services stealing babies for adoption. There was Exposure last year; the documentary which talked about forced adoption. We have got big spreads in *The Mail*. We have Denise Roberts from *The Mail* talking about the number of parents who contact her and how heartrending their stories are. The adoption rate is in freefall after various different court rulings, people winning fights, great injustices and then, most recently, we have this case of a couple cleared in the criminal courts of abusing their child and their child not being available to them. Obviously it's been adopted and all their legal ties have been severed with their child. So the most recent very public horror story of contested adoption and it would make any parent shudder. It certainly scares me and obviously those two parents and anyone else who ever finds themselves in this position will never get over what's happened to them. Their child's human right to live in its birth family hasn't been respected despite everybody's best intentions. Every member of that family has been irrevocably harmed and they will never recover.

This is the message that I get from parents to whom I have access that most people won't have, and they will probably speak to me in a way that they won't speak to social workers. But obviously the thing that I want to draw out is that it's not just those individuals that we know about who are affected. It goes far wider than that. Also harmed in this kind of case has been the relationship of every single parent who is currently in care proceedings or pre-proceedings with the social workers who are trying to work with them to keep children safe. I think most people in this room will know of the case that was reported yesterday where social workers were shown, several of them, three of them in fact, to have deliberately lied or fabricated evidence and not only did that happen but they were promoted. Why should anyone, the argument goes, trust a system that can do this to parents who are innocent?

And then I want to look at the harm to children in the future whose parents would balk, having heard these stories, at seeking medical help for an injury or illness - whose unease stops them going to see professionals. These are just some of the human costs that we have to fully acknowledge and accept when a contested adoption goes so horribly wrong. But it's not realistic to frame this debate from the worst injustices because they will, hopefully at least, be few in number. They are not acceptable. It is not acceptable collateral damage to get something this wrong, but we are human and our systems will never be perfect; they can't be. But nor should the issue of adoption be defined from the other extreme because, yes, children are harmed, sometimes killed by their birth parents and their relatives, but these absolutely monster parents who deliberately, evilly, culpably harm their children are vanishingly rare. They exist but the fact that they do cannot, I believe, be allowed to frame the debate either.

I want to put in some context here. Colin Pritchard, a professor at Bournemouth University, says that the reality is that child abuse related deaths in this country have never been lower since records began. When the Maria Colewell enquiry hit the headlines in 1974, the UK then was the fourth highest child killer in the Western world. Now, Pritchard says, depending on how you count we're the third or fourth lowest of 21 Western countries and on current World Health Organisation figures, out of nearly 11 million zero to 14 year olds in this country, there are 12 confirmed abuse related deaths every year with 15 that are undetermined. So, in fact the vast majority of parents in care proceedings are damaged, frightened people who often had appalling childhoods themselves. They love their children. They do not want to hurt them. So, instead of looking at either polarised extreme as the place from which we start this debate, I'd argue that we need to be looking from the wider perspective of a society in which, yes, there will always be parents who harm their children or put them at risk - but not willingly. Not because they don't love them but because they don't have the personal resources, the support or the skills to be able to barely adequately care for their children, and it's with this far greater number of families where I believe we have to start, but I'd acknowledge that it's a harder place to start from because initially at least it seems much more complicated.

Every time I write an article about adoption, I am contacted over subsequent days and weeks by parents, sometimes grandparents, with harrowing stories of forced adoptions. Of course, I hear only that side and I can't possibly investigate them all, even if I had free access to the court papers and even if social workers as well as parents would speak to me which they very rarely will. But the human misery and destruction that results from adoption without consent, whatever the cause of that adoption, is, I'd venture, pretty much the same however it ends up that your child that you carried and gave birth to is adopted against your will. And in numbers terms it's happening around 5,000 times a year and the government wants it to happen more. And the government wants it to happen faster. So, I want to look at scale. Say there's at least one other sibling involved, a mum, a dad, two grandparents, so that's 30,000 directly affected year in, year out.

Some of you will know that I'm in the middle of writing a long piece about some care proceedings involving a mother whose baby was removed at birth but who got that baby back. I went up to Newcastle last week and I met five of her friends as part of my research for that article. I met three of them in a restaurant and two of them at one of their homes. Two of those women were part of the support package offered to the court and I asked all of them: "what are your feelings about social services having seen how they operated in this case?" And their answer, to a woman, was "terrified". They are all terrified and this is supposedly a good news story. That baby went back to its mother. It wasn't adopted, although the council's plan until the 11th hour was that he should be. Those women I interviewed, some of them professionals who work with the state, all of them reasonable people, told me how their mistrust and fear is so great they would never now dream of approaching social services if they needed help themselves. So, we have to acknowledge that that fear is real and I would venture with 5,000 contested adoptions a year plus the normal ripple effects that it's not going away. This extensive human fallout of adoption without consent is what the media is picking up on. We could hardly do anything else.

The orthodoxy in this country is that forced adoption isn't just a reluctant measure. It's one as we've seen that has been actively promoted over the past 15 years and from the point of view of someone standing here, it's very scary to counter that prevailing orthodoxy. So, I thought it might be worth looking at some other situations where principles that opposed that orthodoxy of the time have had to be defined and argued and fought for. If every slave owner had treated his slaves beautifully, would slavery have been okay? I don't think so because depriving someone of their freedom and forcing them to work for nothing came to be seen as a fundamental evil and because human beings' freedom is now accepted to be a fundamental right, it has become unarguable in many, though I accept not all, parts of the world that human beings are born as equals. But that was not always the way people thought. With capital punishment, if it could be ensured that every person executed was indeed a heinous murderer, would capital punishment be okay? Well, no, the argument goes, because overall in this country enough people seem to think that judicial killing is too great an insult.

So, the point I'm making is that the principles on which our social contract rests are actually not universally accepted immutable facts. They reflect values that change and evolve over time. And so the principle here that I want to outline is about the long term respect for the wellbeing and functioning of our human communities which are made up of families, some of whom struggle for very good reasons. Though it's possible that the other side will say that this argument risks enormous harm to children, in fact, I believe that taking this position in fact in the long term safeguards children overall because it safeguards their identity and their psychological as well as their physical wellbeing into the future.

I think there are some questions that need answering if you're prepared to legally sever every tie that links a child to its birth parents. The ones that strike me are these; first of all, what do we value most as a society which is inevitably made up of families which together create communities upon which humans psychologically and practically depend every single day? I don't think that what we value most should be keeping children safe, although that comes up very high indeed.

The second question I want to ask is what are the costs we're prepared to bear or, let's face it, what are we prepared to require other people to bear to achieve keeping children safe? I don't think that should be virtually any level of cost at all, no matter how destructive to society as long as keeping children physically intact is achieved.

And lastly, what do we believe about selfhood, about identity, about relationships with parents, siblings and extended family and their relation to a child's wellbeing? Ultimately, I think keeping children safe and having a fulfilled childhood is a goal. I don't think it's a value. Values are about the underpinning roots and beliefs about our human state on which our society is built and is sustained. Keeping children safe is a goal that could, with imagination and commitment, be achieved more successfully by less drastic means than by its adoption without a parent's consent. The options for permanence for children would obviously look very different but they would all be legally predicated on retaining links between children and their birth families so that there is a continuous sense of identity for a child about where they come from and with what is true and real about their selfhood.

There are clearly alternative ways to achieve this. Other countries allow adoption but do it very rarely indeed. As an example, The Netherlands, for instance, has an average of just 28 adoptions of Dutch children each year. Now, I suppose it's possible but I don't think Dutch children are dying in their droves, so presumably other effective systems of keeping children safe have been found. I do need to make it clear that I'm not arguing that a child should never be removed from the care of its parents and in crucial respects I'm not arguing from the point of view of the rights of parents. I'm arguing significantly from the perspective of the rights of the child - but more I'm arguing from the perspective of the kind of society I think we should aim to be; the way we should look at families who are living over long periods, in fact from one generation to another and then into the next, under immense stresses the like

of which most people will never fortunately have to find out whether they could withstand and still parent adequately.

And also I'm arguing from the point of view of what we should be aiming for in terms of family life and what we are willing to do as a society to make meaningful the value that we purportedly attach to family. Because families are, after all, what our human communities are made up of. In the final analysis, we have nothing else.

I'm not saying that children who are suffering immense emotional and physical damage should not live with someone else and have the chance of a warm, loving, committed relationship throughout their childhood and beyond. And I'm not saying either that finding people to provide that might not be immensely difficult if a legal link with birth parents was preserved as well as a presumption of some contact. But why can't we imagine and promote and start to formulate the concept of more than one parent?

For the long term benefit of children and their parents and for the trust in our contract with society and with the state that human communities need in order to function well, I would argue that this more difficult path for professionals would be the better one to tread.

The issue fundamentally is that we can't pretend to be anything other than who we are. We'll only ever be the child of that mother and that father. The risk of the law trying to override that biological reality is causing, I would argue, psychological violence to our sense of self and to our identity and the cost being borne by other people is immense. It's why this issue will not rest in the media, and of course with access to social media and the airways now so easy, people don't need someone like me to air their desperation, their sense of injustice and their deeply held hurt.

In the cases I've read and some that I have reported, it has become chillingly obvious from in depth interviews with parents and from judgments which I plough through with mounting dismay, I have to say, that the manner in which care proceedings unfold can become a self-fulfilling prophecy of doom.

Petrified parents with little support from anywhere, particularly now that services are cut to the bone or simply unavailable, crash and burn over the 26 week period within which they are all too aware a decision on permanence must be made for their child. There may be a few helpful nods to the idea of supporting those who are in such dire straits in the form of pilots like the Troubled Families project or indeed the fantastic Family Drug and Alcohol Court which I've observed in practice in Gloucester under District Judge Julie Exton, but there is nothing systemic. Very little I've seen that really helps most of these parents in a deep way. Nothing much that anyone can trust will be there for the long term and absolutely nothing they can engage with without constantly the fear that their child will be lost to them forever. (I am coming to the end now.)

We're now seeing florid statements from the most senior politicians declaring that they will bend and even remake the law if more adoption faster isn't accomplished according to the rigour of existing statute. I think it's a pretty appalling spectacle and a post by the legal blog of *Pink Tape* after politicians' pronouncements on the matter is, I think, worth quoting. She said:

"The airwaves appear full of cries of "more adoption" and "more quickly". All semblance of nuance in the debate has disappeared. There is now no attempt to distinguish between finding more good placements promptly for those who can't go home and just generally removing all children from crappy parents everywhere in some kind of class cleansing."

She carried on like this:

"I can't even be bothered to do a proper post about the gazillion ways this is legally wrong, morally bankrupt, economically stupid and socially catastrophic I am so despondent."

It's worth restating again; these children will always factually and indisputably originate from their birth family and there are, as is seen in other countries with more compassionate social care systems, alternative ways to protect children without having to deny what is real.

Finally, is this really the best we can hope to do? Is removing a child from its birth family, severing forever the legal link with its mother and father who love it, often breaking critical sibling bonds and relationships with extended family really the best this society can manage? Is it the best we can imagine and is it the best we can resource?

To me, it demonstrates such deep poverty of emotional intelligence to think that this honestly is the best we can come up with. Adoption the way this country does it highlights a shallowness and a quick-fixery in our approach in dealing with those who are struggling desperately to care for their children in often unendurable conditions of poverty and psychological distress. It also to me illustrates a paradox about how as a society we seek to keep children safe and how we purport to value family relationships, because its savagery takes no account of the longer term effects on that family, that community and overall the destruction of trust that individuals and importantly some children then come to have in the state as they grow up and become parents themselves.

And I'm going to finish with a quote that I couldn't quite believe when the person who I was interviewing gave it to me a few months ago. I was so surprised that as I was writing it up I checked it back again with her. I was talking to Maggie Mellon who is the Deputy Chair of the British Association of Social Workers and this is what she said:

"The policy imperative towards more and quicker forced adoption means we may well look back at this period in horror as we do now

to the forcible removal of thousands of children to Australia in the 1930s, forties and fifties without their parents' knowledge and consent. That was done because it was felt it was the right thing but now we think how on earth could we possibly have done that?"

Thank you.

JM: I will now ask Martin Narey to respond.

MN: Thank you very much, Sir James. I still sometimes think it's quite odd my standing here in these sort of debates because I have no background in adoption, I'm not adopted, my children aren't adopted so I want to begin with talking a little bit about why I become so interested in it and why my conclusions about adoption are very different to those of Louise, passionate as I accept her views are. As Sir James mentioned, I spent most of my life working in the prison service. That's what I did. It was the most important thing in my life. When I failed to persuade one Secretary of State that we had to limit the number of people being sent to prison, I resigned and I found myself, through serendipity, joining Barnado's.

I was a very odd appointment for Barnado's. I was the first non-Christian to manage Barnado's. I was the first non-social worker to manage Barnado's. But to some extent I think the fact that I was a bit of an outsider might have given me a bit of advantage. But I arrived there in 2005 and in my first summer there in 2006 I inherited and accepted entirely a view of child neglect in England which was that it was much better managed at home and that taking children into care inevitably would make things worse. Indeed in that summer of 2006 when GCSE results showed, as they always do, but for very good reason, the relatively poor performance of children who are in care relative to their peers, I was very, very critical of the government. I said some things about the care system which now embarrass me, they were so simplistic and so unfair. But, fascinatingly, that didn't bring any criticism. It brought the then Secretary of State, Alan Johnson, to ask me to lead a working group to see how we could drive down the numbers of children in care.

I did lots of public consultations, talking to practitioners about the issue of care and the general brief given to me then by the Department for Education was to go and look at the local authorities which had fewer children in care because they were patently doing a better job and to look critically at those that had more children in care. And when I had sessions like this, the proposition that care was bad for children as it would make things worse, that managed neglect as it was called, was better, was never challenged and actually why should it have been? This is a time when distinguished people were saying incredibly critical things about care and about social workers. Barry Sheerman who was the then chair of the Education Select Committee talked about, a care system which "was catastrophic for a child's future prospects," and one of our distinguished chair's predecessors, Lord Justice Wall, felt it necessary to say that social workers were - again I'm quoting - "perceived by many as

arrogant and enthusiastic removers of children from their parents and into an unsatisfactory care system.”

So that’s where I started. But at these events, what happened was that when the events were over, people would sidle up to me. On one occasion in Bradford a young social worker sidled up to me and was in tears as she told me about the pressure which was put on her not to intervene and not to take children into care and her absolute conviction that we were doing irreparable damage to some children by not intervening. So, I spent some more time looking at the work that Barnado’s did in this area. Barnado’s of course don’t take children into care but we did a lot of work for a number of local authorities, advising them on the preparedness of children to be returned to their birth parents (or, as is more usually the case mothers as there are very frequently no fathers around) And let me stress I’ve never met any of these monster mothers that Louise talks about. I agree entirely that if they exist they exist extremely rarely. But it doesn’t mean that sometimes mothers and fathers – much as they love their children - aren’t able to parent children decently or satisfactorily. And when I began to scrutinise the work that Barnado’s were doing, I became more and more alarmed at our reluctance to intervene and the well-intentioned optimism which saw Barnado’s recommend that we should return children to their neglectful homes from which they’d been removed.

So, I declined to recommend that numbers could be driven down and later I published an article for the Institute of Public Policy Research arguing that the numbers in care might need to increase and we that we had to liberate social workers to make the best decisions that they could in the interests of each child.

And I warned against that sense of optimism in believing the children in large proportions could be safely returned to their birth families and I was right to do so because in the same year an important piece of research from one of Julie Selwyn’s colleagues, Professor Elaine Farmer at Bristol, followed 138 children who had been taken into care and then returned to their parents. Two years later, three in every five, 59 percent of those children, had been abused or neglected once again. And I reminded people including Ministers that a population of then 66,000 children in care in England, now about 68,000, contrary to almost all opinion expressed in newspapers, was not a record number. In 1981 in England there were 92,000 children in care; more than a third higher than today. Has the quality of parenting, so substantially improved that there’s a rationale for those reduced numbers?

But the question was, if we were to have more children in care, and fewer of them could be returned home, what were we going to do with them in terms of providing them with stability and permanence which might compensate for the neglect that they’d suffered? So, I began to try to understand why it was that adoption was in near terminal decline. And when I stepped down from Barnado’s, as Sir James has mentioned, *The Times* were good enough to fund me to spend a few months looking at this in detail and I published a paper about adoption and its decline in July 2011, and I identified a number of

reasons for that decline. First of all, I found that people rejected the notion of adoption as being an effective solution because it was believed that between 25 and 30 percent, of adoptions broke down. *The Guardian* estimate was 30 percent but the estimates from some charities were just as high. Action for Children estimated adoption breakdowns at 25 percent. My own charity, Barnado's, had estimated adoption breakdowns to be very high.

After working with a lot of professionals and particularly John Simmons who is in the audience today, I estimated that adoptions were most unlikely to break down in that proportion. I suggested the real number might be or the real proportion might be nearer to ten percent but my first recommendation was that we needed to commission research to find out the real number, and Professor Julie Selwyn was the person who conducted that research and her conclusion last year was that certainly a lot of adoptions and adopters struggle, about a quarter of adopters have severe difficulties and desperately needed the adoption support which they weren't getting but which many of them are now beginning to get. But only three percent of adoptions break down. Not 30 percent: three percent.

The second reason why people sometimes argued with me that adoption was no longer appropriate was a conviction (you know, I've never met anybody in this business who hasn't thought they were doing the right things for children but the number of times I've had opinions quoted at me without much evidence to back them up is remarkable) an absolute conviction that adoptees would always, always carry a sense of loss and become poorly adjusted adults. It is rarely the case. Or, thirdly, as it was often put to me, adoption wasn't appropriate because the law requires us to balance the interests of the child with the interests of the family and that this means that non-consensual adoption should not be tolerated. The law of course requires us to put the interests of the child first.

There were also some administrative things that meant that adoption numbers were in steady decline.. Very, very poor adopter assessment processes which often meandered on for two years or more, often (as adopters would say to me when they wrote) with sometimes no end in sight. We had practitioners who sometimes confused volume of information for the Court with analysis: pages of repeated facts and very, very little argument which a court or indeed an adoption panel could find very useful. It was the voluntary adoption agencies, some of them who are represented in this room, who stepped forward and said we'll sort this out and redesigned the adopter assessment process so it's every bit as rigorous as it ever was, but much faster, much more concise and with much more analysis. The voluntary adoption agencies deserve huge credit for that.

And finally, adoptions were being held back because of a restrictive view on matching which excluded adopters from any role in the process and which often discouraged white potential adopters from even applying for adoption. The insanity of our approach on matching was evidenced most clearly by its effect on children from a black or minority ethnic background. Such children were condemned to wait in care, waiting for adoption, a year longer than white

children because of a conviction, for which there is no evidential foundation, because of a conviction that transracial adoptions, as they are rather clumsily called, would break down in large numbers. Convincing ministers that was not the case and changing the law on ethnicity, culture and matching has meant that at last that very grave disparity of one year between waiting times for a black child and a white child has at last began to close.

Finally, I want to say something about permanence because I think most of us would accept that there are children who have to be removed from parents and can't go home. Yes, as Louise has suggested, we could look at more open adoptions. I was in Australia a few weeks ago where they're trying to rejuvenate adoption and their first attempt, their first choice, is to try to look at open adoptions. But before doing, and as I suggested to them, they will need to understand the evidence on contact. Contact can sometimes be very good for children. But it can sometimes be hugely damaging for them. Speak to foster carers. Speak to foster carers about their experience of contact and the effect on children before and after their meetings with birth parents. Look at the evidence - again from Professor Selwyn - on the proportion of children who are indisputably harmed by contact.

The type of adoption we have here, non consensual adoption, is used relatively rarely when set against the size of the care population and the number of fostering placements each year. We don't have 5,000 non-consensual adoptions, Louise, we have 2,500. We have 5,000 adoptions but in about half of those, the parents agree with the adoption before the matter is concluded at court. But that's still a significant number, but a necessary number?

I'm accused frequently, I'm accused almost daily on Twitter, of believing that adoption is suitable for all children in care. That is patently nonsense. I believe, I've always believed, that when a child has to come into care, the first option has to be to return that child with support to their parental home. And the second option has to be kinship care. Adoption can only be ever right for a minority of children in care but for a bigger minority, I believe, out of the 68,000 children in care in England than the 3,000 or so adoptions we saw in 2011. And if we're properly concentrating on the interests of the child, for infants and very young children, we need to be aware of the reality that however much we might wish it were different, that adoption offers more certainty in terms of permanence than any of the alternatives.

An Adoption breakdown rate of three percent over the lifetime of that adoption compares with a breakdown rate for special guardianship orders of about six percent over just five years. And Professor Selwyn's research more recently identified a much greater gulf in permanence between special guardianship orders and adoptions. It's sometimes said, and it's quite wrong, that children who haven't been getting placement orders in the last year or so are all getting special guardianship orders. It's not the case. About half of those children are going to fostering placements and, no doubt, the Courts believe that that such placements will be long term. But just because we call fostering long term, it doesn't make it so. Long term foster care is intended to be permanent but for

very many children it is not. One important study found that 28 percent of children had left their foster carers after placements lasting just three years. And even allowing for the fact that some of those children might have been older, the contrast with adoption in terms of permanence is very stark.

There should be no targets for adoption and actually I regret some of the rhetoric about adoption. That's not to criticise politicians necessarily but briefings get summarised and issues are simplified and sometimes things are said which are too simplistic. But actually from the Prime Minister, from Michael Gove or from Nicky Morgan, I've never heard any suggestion that they think adoption is only the answer. They want to see more adoptions because, as they and I believe, it's a disposal which has been in decline despite all the evidence for it.

There should absolutely be no targets for adoption but its unique permanence and the fact that research shows that it has a capacity to help children catch up with their peers in relation to cognitive development and physical growth, means that if we're really serious about the primacy of the interests of the child; if we're really serious about putting children first; if we're really serious about taking a dutiful approach to rescuing children from the most damaging and abject neglect that they sometimes experience -however loving their parents might be; if we're serious about that we need to ensure that as many children as require it get the unique chance that adoption offers to transform their lives. Thank you.

CFG: So, for me the topic of today's debate raises three very important but interrelated issues. The first and most obvious relates to of course consent to adoption and brings into question the potential conflict and indeed confluence between children's rights and parental interests and how we can balance these. Secondly, it raises the question of whether adoption is the best option for children who can no longer live with their families, and what other mechanisms could be used to ensure safety and stability without terminating parental ties, as Louise spoke about. However, there is another issue which underlies both of these questions and that is who is recognised as a parent and when must their consent be sought for adoption? And this is the question that I want to focus on today.

So, the question of who must consent to adoption is crucial for the child, obviously, in terms of knowledge of identity, in terms of widening the possibilities for a kinship carer, as well as for the parent. Most European jurisdictions simply require the consent of both parents, as long as neither of them has been deprived of parental rights, and you can see a list of jurisdictions there. However, there are many jurisdictions that put restrictions on the involvement of a parent in the adoption decision, depending on their relationship with the child or even on marital status. The most restrictive jurisdiction we can see in Malta where only the mother of a child born outside of wedlock need consent to the adoption, whether or not the father has recognised the child, whether he has made financial contributions; even if he has cared for the child, he has no say in this decision. We can see that such an approach is inherently discriminatory in that it relies on outdated

assumptions concerning the attitudes and aptitudes of unmarried fathers. It assumes that mothers will be the primary carers for children and that fathers play little or no role in their lives and nor do they deserve to.

Now, while we can say that this is an outlying jurisdiction, what we can see through the thread of European law in this area is that unmarried fathers are often not able to be involved in adoption decisions and particularly not the way that mothers are able to. So, the majority of jurisdictions don't have such a restrictive approach. A significant number of countries you can see consent is only needed from parents with parental responsibility or who have custody of the child and you can see there this is largely the Scandinavian jurisdictions of course England also. In each of these jurisdictions, an unmarried mother has sole parental responsibility, although in all of them but Austria it's possible for the father to apply to court to be recognised. In Austria, without the permission of the mother, he can never have parental responsibility. Several other jurisdictions have based their adoption consent laws on the level of involvement with the child. So, for example in The Netherlands we can see that adoption can only be ordered if neither parent raises an objection but this objection can be ignored if the parent has not or hardly ever lived with the child in a so called family environment.

In Switzerland, consent is not required from a parent who has not cared for the child to any meaningful degree. While these jurisdictions have focused on social ties, we can see that Cyprus actually focuses on the financial side of things. So, they require consent from any person who is liable to contribute by a court order or agreement to the financial maintenance of this child. So, this approach based on social ties, on care and commitment to the child is substantially similar to the approach of the ECHR in this area. For fathers to have any procedural or substantive rights in relation to the adoption of their biological child, he must first establish that he has family or private life under Article 8. Although the court has long established that unmarried mothers automatically have family life with their child, from the moment of birth this is not true for the father. Where a child is born within wedlock, family life is found to exist automatically with the biological father. However, when the child is born to unmarried parents, the father will have to prove that he has established some relationship with the child or shown a commitment to the mother. A mere biological relationship is insufficient.

This can be extremely difficult for fathers, especially in cases concerning adoption where the mother has, for example, put the child up for adoption at birth or whether the mother simply doesn't want the father involved with the child, and we can see that in this way he is denied from forming any relationship with the child and thus establishing any rights. And this is where we run into a second problem concerning consent to adoption. Having the right to consent to your child's adoption or at least have your consent dispensed with is all very well and good but it is only effective if you are recognised as a parent in the first place, but what if the father is not named on the birth certificate or acknowledged by the mother? Should this prevent the child's right to know and be cared for by both of their parents under Article 7 of the UNCRC? In England, the courts have been steadfast in refusing to force

mothers to name a child's father. Although they've been willing to make orders directing the mother to disclose identifying information about him and have authorised local authorities to seek to persuade mothers as to the desirability of doing so, on numerous occasions the courts have been unwilling to take the next step and force the participation of recalcitrant mothers.

The current English approach was aptly characterised by Mr Justice Munby, as he then was, in the case of *X County Council v C*. In this case he said the whole process of seeking to force the mother to cooperate smacks too much of the inquisition to be tolerable and it is not justified merely because we believe, however, strongly, that what we are doing is being done in the best interests of the child. We can reason with someone in the mother's position. We can seek to persuade but we should not seek to force or coerce. This approach was taken one step further in the case of *Re C v XYZ County Council*. In this case the mother had had a one night stand and upon the birth of the child wished to place her, I believe, for adoption. The local authority applied to the courts for guidance as to the steps to be taken concerning the identification of the father and whether they should explore the possibility of placement with an extended family and with his extended family also. The Court of Appeal held that where the child was to be placed for adoption, there was no obligation to make any enquiries into the identity of the birth father unless these would genuinely further the prospect of finding a long term carer without delay. This was the case even though the local authority acknowledged that they could potentially identify the father with relative ease.

But what else could we do? The English Welfare Reform Act in 2009 would have required mothers to have registered the father on the birth certificate unless they could show that this would be detrimental to their or the child's health or wellbeing. However, while this was passed by parliament, it was never actually brought into force. Other jurisdictions on the other hand are taking a more proactive approach. In Croatia, Montenegro and Slovenia, for example, there is an obligation on the registrar to contact the mother of a child born outside of wedlock and ask her to give a statement concerning the identity of the father. In Denmark, there is an obligation to institute proceedings for filiation in cases where paternity has not been previously established. The mother is summoned to a meeting in which she has a duty to disclose information, although a violation of this duty is not punishable. However, in other Scandinavian jurisdictions, for example Sweden, we go a step further. So, in Sweden, if the mother doesn't identify the father on the birth certificate, the social welfare committee goes along and talks to her friends, her family, her neighbours, to ask them with whom she has been having sex. On the basis of this, they create a nice little list and do some DNA tests. The investigation is only stopped if it impossible to find the necessary information or if the continuation of the investigation would be detrimental to the health of the child or would cause a danger to the mother's mental health. Now, I don't know about you but having my neighbours interviewed about who I've been having sex with I would say would usually cause a danger to my mental health.

So, while we might think this is extreme, I'm going to rely on our wonderful neighbours across the Atlantic in my favourite example from Florida. In 2001, Florida passed a law which said that any mother who put a child up for adoption must name the father. If she did not do so, either through unwillingness or ignorance, she would have to put an ad in the newspaper to which she would say, "Hi, my name's Claire. I'm five foot five and on April 17th I met this guy called Luke at a nightclub and we had sex and, well, now I'm pregnant, or it could have been that other guy, I've quite forgotten his name, but he was very good looking and that was on March 18th." Unsurprisingly, this was found unconstitutional two years later, so we had two years of this law. On the other hand, other US states have shifted the onus towards fathers, so away from the mothers having to register and towards the fathers having to register their potential interest in the child. Approximately 30 states have set up these so called putative fathers registries which requires the man to be the one to ring up the government and tell them who he has been having sex with.

So, in some states, Florida once again - it's a wonderful example for so much of my work - any man who engages in a sexual relationship with a woman is deemed to be on constructive notice that a pregnancy may occur. As such, he has a duty to protect his own interest and must inform the registry otherwise the state has no obligation to seek him out. In Illinois, on the other hand, if the father doesn't register within 30 days of birth, not only is he not entitled to notification of proceedings but he is barred from asserting any interest in the child. Failure to register is deemed an abandonment of the child and constitutes a waiver of all rights. A lack of knowledge of the pregnancy or birth is not an acceptable reason for a lack of registration.

So, what is my point with all this? What we can see from the question of whether adoption without parental consent is wrong in principle does not just concern when or if we can dispense with consent, nor what the best long term solution would be. It goes to the heart of who we recognise as a parent and it looks at the wider system of family law. So, we cannot take these proceedings in isolation. We have to look at the care proceedings before this. We have to look at filiation proceedings. We have to look at the whole system. In answering this question, it is important to take a child centred approach, focusing on the right to identity of the child, the right to know and be cared for by his or her parents, but also we have to think about gender equality and the recognition that fathers are of equal value and importance for the child as are mothers. Thank you.

JS: Good evening everybody. I'm going to come at this debate slightly differently. I'm going to talk about the research findings and focus more on the children and what we know about them and what we know about their outcomes. So far, very much the debate has been about the adults and the parents, so I want to focus on the children. Well, as everybody's said today, today we have just over 5,000 children who are being adopted and I want to argue they're being adopted because it's their best chance for developmental recovery after the abuse or neglect that they've suffered in their birth families. There is masses of evidence to support that statement. When we look at those 5,000

children, three quarters of them entered care as a result of abuse and neglect. They are some of the most vulnerable children in our society. Based on my research, and many other people's research, I've been researching now for 20 years and when we've looked at complete samples of adopted children, typically many of the mums have problems with drugs and alcohol and that's often combined with a chaotic lifestyle and living with a violent partner, so that when children are born they're born withdrawing from the effects of drugs or alcohol and we're learning much more now about the effects on the foetus of having a mum who's suffering stress during pregnancy.

Once born, neglect is the most frequently mentioned abuse. Very young children have to fend for themselves. When I talk to children, they tell me stories about how they have to find water in toilets, how they had to eat anything, begging in the streets. In our last study, one of the children described going across the road to the chip shop to pawn her toys so that she could have enough to eat. It isn't simply that children aren't fed when we're talking about neglect but the parents who should be there to protect and comfort them are not. They're not there physically or psychologically and when we do talk to children, they say to me, "Well, why was I left so long?" and it's very hard for children to gain legal recourse for failure to remove. How often do we see those cases actually having enough evidence to come before the courts? Sexual abuse, although much rarer, and there's a programme on tonight at ten I'd suggest people watch, occurs for about one in five adopted children, and in one of our studies, again looking at a complete cohort of adopted children, the average age of sexual abuse was three, but for many they were babies. These were babies who were being sexually abused.

There's also significant proportion in all our adoption studies of parents who do not want their children. We don't want to think about this but they don't. They reject them. They abandon them. They're left at police stations, GP surgeries and about 60 percent, when you look at an adoption sample, have been multiply abused. They've been neglected. They've been physically abused and rejected. Maltreated children must find the world a very frightening place and they adapt in various ways to these highly stressful and abusive homes. At entry to care, we know that children often have very little language. They don't know how to play. They lack a curiosity about the world. They might be hypervigilant. They don't go to adults for comfort. They have trouble making friends. They have problems learning. Maltreatment disrupts every area of development and for some children that disruption in their development continues into adulthood. There is some very important American work going on called the ACES Studies. They've been running for the last 15 year. It's The Adverse Childhood Experiences Study and they've looked at the impact on adult health of early maltreatment and they've found that it isn't just adult mental health that's more likely to be affected but physical health. So, adults who've experienced early maltreatment are more likely to get diabetes. They're more likely to get heart attacks, strokes and their life expectancy is reduced.

Now, when children come into care, obviously they then need sensitive parents or carers who can put themselves in that child's shoes and think why

the child might be behaving as they are. They need to think about how to reduce that child's stress because the stress response is partly believed to be responsible for some of these disruptions in development. In short, we need parents committed to the child's welfare for the long term. Now, on the one hand I think birth parents often recognise that they can't provide the care that children need but even so they wouldn't sign their children away. They wouldn't give consent because they'd prefer to be able to say in their communities, "social workers or the courts took my child away."

Consent is a very complicated issue. In some of our studies, we've seen Asian mums giving consent when in reality they hadn't really given consent. They were being forced to give consent by their families. So, the actual physical act of giving consent is a lot more complicated than just signing a piece of paper. Of course, the histories of the birth mothers, as everybody has said, evoke our sympathy. They come from families where they've often been mistreated themselves. Many of them have grown up in the care system. They've difficulty looking after themselves and protecting themselves, never mind a child. Indeed, a study of contested adoptions by Barry Luckock, who's sitting in the audience, identified cases where parents had failed to participate in any of the stages in the care proceedings. They'd failed to offer any care. They'd not taken part in any contact but they sought to obstruct anyone else from being a full parent to their child. It's unrealistic to expect the new parents or carers helping to ensure a child's developmental recovery to have anything less than full parental responsibility. Why should these very vulnerable children get less than their welfare demands? If we have consent only adoptions, adults' rights would be prioritised and children's best interests would come a poor second.

As many people have already highlighted, the adoption disruption rate is low and it's the most stable of all the orders. We looked at 37,000 adoptions over a 12 year period. Adoptive parents remain committed even after disruptions. Parents were still parenting. Although the child couldn't live within the family, they were still doing the washing for the children, they were acting as financial guarantors on flats and they were still trying to get those mental health professionals to provide the kinds of interventions their young person needed. There's masses of evidence that adoption aids developmental recovery. In the UK, 66 percent of adoptive parents who are parenting teenagers think that in the main adoptive life's going well. That's not to say it's not without its challenges. We also know that for about a third of children, they continue to experience fears and anxieties that can be very easily triggered and they may continue to show symptoms of post-traumatic stress disorder, conduct disorders and they have tremendous difficulty in allowing themselves to be comforted and for adults to act as parents. These children need parents who are willing to become much more than just ordinary parents. They need therapeutic parents.

But can we just leave them in foster care? Won't that do? Well, it won't. A primary reason is lack of stability. We know that children need stability. They need to feel secure. Bowlby said it is the world in feeling, not as it is. It's the way children feel. So, stability is about physical and emotional security. Of

course some children stay in one placement, but we know that one in four children in foster care experience two or more moves every year. If you talk to any group of care leavers, they tell you about ten plus placements. They tell you about their disrupted lives. Change of placement means change of school, change of friends. Children lose a sense of who they are, who they live with. They lose their photos. They lose their possessions and all those anecdotes that are so important to children. It's what gives us our sense of identity. On top of changes of carer, there are also constant changes of social worker. Now, that is not measured anywhere but we've just done a survey in a local authority and 50 percent of the children had had two or more social workers in that year and 30 percent three or more social workers within 12 months. So, we often talk about adoption in terms of loss but there's an awful lot of loss for foster children too and often with no consistent adult to help them through.

All the research on resilience, and that's looking at really big disasters in the world, ferry disasters, Zeebrugge, the 9/11 attacks, all these huge disasters and terrorist attacks, children who've recovered have had an adult with them; a sensitive, caring, usually their parent with them. It's therefore not surprising that when we look at foster children and the American research in particular, that even when children enter care with no behaviour or mental health problems, moves on their own predict the development of those difficulties. The lack of stability, it can lead to feelings of not belonging, of not having a normal life. Permissions have to be sought for haircuts, going on holiday, there are reviews, social workers are visiting. They're marked out as a looked after child. It carries a stigma. Our studies found that foster children were not as close to their carers as adopted children were to their parents, and there's lots of other UK research highlighting feelings of lack of belonging.

Practice of course can be improved, and much has improved since I started out as a social worker in the 1970s. Practice now is unrecognisable compared to back then but it's not easy for the state to be a good parent as budget requirements and planning cycles can drive decisions rather than the love and commitment parents give to their child. We also don't know how many looked after children have no contact with their birth families. In the University of East Anglia studies of long term foster care, about a third had no contact with their mums and in most cases that was because the mothers did not want contact. Similarly, we've done studies of kinship care and we did in depth interviews with 80 families. 48 percent of that group there was no contact with mums. Again, it was mainly because mothers had rejected the child and they didn't want to be a parent. Importantly, for many children in foster care, the impermanence during childhood becomes even more stark as they move into adulthood.

We still have children who leave care at 16. Last year a quarter of those who left care during the year did so on their 18th birthday. Even those in the Staying Put programme who were with their carer on their 18th birthday, less than half, 48 percent, were still there three months later. Permanence is about stability, not just during childhood but beyond. It's really important that we recognise the importance of parents in the transition to adulthood. Young

people leave care when they're not ready and they don't have the same kind of support that children who have are growing up in families. My own sons, I have got three boys, two of them are now in their mid-twenties, they often call not only for a chat but for all kinds of support. I got a call not long ago, Sunday morning, eight o'clock, "Mum, there's water coming through the ceiling in my flat. What do I do?" For care leavers, who would they call? Who would be around to act as grandparents for the next generation? The welfare checklist asks that the likely effect on the child throughout his life of having ceased to be a member of the original family and become an adopted person. I argue that the likely effect on the child of being adopted is to have supportive parents to help with that transition into adulthood and who will be still there acting as grandparents for the next generation. That's much more likely for adopted children than those who remain in foster care.

Of course you might argue if we had a better welfare system and better foster care, would we need adoption? I'd just like to support what Martin was saying is that actually we have quite a low rate of children in care compared to many other countries. It's also a myth that other countries don't have legislation that allows adoption without parental consent, certainly most European member states do, Claire's own work has highlighted this. What's different is that there's usually no active permanency planning, there's no recruitment and preparation of adoptive parents to meet children's needs, and there's little monitoring of how children do once they come into care. Because of this debate I was looking at various reports online and a recent Canadian report said, "We've no idea how many kids are in care and we don't know how they're doing." Well, thankfully, our government is interested. Although adoption isn't used as much in these other countries, many countries terminate parental rights and the children remain in care as wards of state. In England PR is only removed when adoptive parents are taking up PR.

So, if you look at France, which was raised, there were 2,347 children in 2010 where parental responsibility was terminated and they became wards of state. About a third of them were placed for adoption but in France it's unheard of to place a sibling group really for adoption or a child with a disability, these are just the infants, the other children remain in the care system. So what do we know about their outcomes? Well, wherever you look it's very similar results, if you look at Sweden, which is a very good country to look at because everybody has an ID and you can track them through all the databases; poor educational results, higher rate of teen pregnancy, more likely to commit suicide, very high rates of suicide in the left care group and three to four times more likely not to be in work compared to children from similar backgrounds. If you look in Spain, which has quite stable care actually, the researchers interviewing the young people, this is what the young people said, they said they felt insecure and were fearful about the decisions they had to make at a young age. These young people didn't describe their parents as a source of support nor did they have a family to turn to when in need, the young people expressed feelings of loneliness and that comes across from a lot of care leaver research, loneliness and thought they could only trust themselves.

Surprisingly maybe for this audience, researchers in many countries have argued for the introduction of UK policies such as permanency planning. We are visited frequently by policy makers and researchers from all over the world. We are so used to in England to always thinking about our services as poorer than other European countries that we don't recognise actually that our, particularly our adoption services, are the best in the world and that other countries want to learn from us. That's not to say that improvements shouldn't be made but we do continue to try to keep children's best interests at the heart of practice.

So, to sum up, there's extensive biological and developmental research over the past 30 years that it's children who bear the brunt of abuse and neglect. By suggesting that adoption orders can only be made with parental consent, the rights of adults are prioritised over those of children. Children also have rights; they have a right to family life, they have a right to be free from abuse and neglect, they have a right to try and achieve their potential. The Children Act 1989 was ground breaking in shifting our thinking from seeing parents as owning their children because of a blood tie to instead thinking about the responsibilities parents have towards their children and for the courts to consider children's best interests. It's the commitment that adoptive parents make, their ability through the adoption order to act as parents, not carers, unconstrained by regulations and bureaucracy and the construction of a relationship that for the vast majority lasts for life that makes the difference. For maltreated children who have no family able to provide the care they need nothing else will do but adoption, the alternatives cannot be at the child's expense. For children it's not forced adoption but protective adoption, thank you.

[Applause]

JM: Well, thank you very much to each of our speakers. We now move to the second part of the evening, questions and comments, either a question or a comment or a mixture of both. Can I just ask that you stand up, you give your name (that is important so it goes on the transcript) but also that you indicate in terms of professional background, where you come from? Yes?

JH: Hello, I'm Julie Haines from Justice For Families, I have absolutely no professional background in family law at all although I am a highly experienced McKenzie friend and assist parents who are going through the, if I can call it the forced adoption process of their children. This evening has raised, yet again, a number of questions but I'm going to limit myself very briefly to one because everybody needs to voice their views and ask a question. What I would like to ask is we're talking about the best interests of the child, under the 2002 Act we are specifically talking about the children who will attain the status of an adopted person. Those children often leave siblings behind, sometimes siblings can be split between their biological family, children in care, the child that goes on to be adopted, very, very occasionally there can be a four way split even with a child that goes to a special guardianship relationship. Mr Justice Holman has been very, very outspoken about the sibling relationship being the longest and most enduring relationship

that any of us as children with siblings will ever have; once our parents have gone and departed this earth invariably we will have our siblings. I'm not a person who deals with a lot of emotional and emotional type things and I don't tend to watch a lot of popular TV but there are a number of programmes that highlight children being split up as young children from their siblings forever and being reunited, and seeing that emotional bond, those emotional ties that have been severed in a legal relationship is extremely heart wrenching to watch. How does the panel get over the difficulty that if every child matters, that if every child's welfare is paramount, the children that are left behind need those relationships with their siblings and they are wrenched from those relationships, and therefore their welfare does not seem to be paramount? Thank you.

JM: Martin, would you like to have a go at that?

MN: Actually, Julie, there was a conference on Friday elsewhere in London on this very subject. When I began my interest in adoption I had the profound view that we had to keep siblings together. I thought the key was simply to find a way of recruiting more adopters who would take sibling groups. But again, as I began to discover some of the evidence, I realised that was not always the case. I think we must start with an assumption that we try and keep siblings together but actually there's a lot of evidence that some siblings, for their own good, need to be separated. Siblings who have endured neglect together sometimes need to be separated: the reparative parenting they need would overwhelm some adopters. A number of adopters have written to me in the most moving terms. Goodness me, they love their children, they've stuck by them, but they have told me that they realise that their children should have been separated at an earlier stage. Sibling relationships are important, this is something I know about, I've got eight siblings. But sibling relationships can flourish despite children being adopted separately and very frequently they do. The key to me is we look at the individual interests of the child, we must not relegate the interests of one child to the interests of the sibling group. And yes people need siblings but as Jeanne Kanuick told me some years ago kids need parents first and siblings second.

JS: Yes, just to follow up from Martin really, siblings are often separated in foster care so contact can also be very difficult for siblings in foster care. As Martin said, it very much depends on the individual needs of the child so I've interviewed children who've said it's fantastic we've been placed together, it's a good adoption, my sibling is living with me. Other families I've visited where the children have said to me being placed with my sibling has ruined my life, one child said to me because of the continuing sexual abuse that was taking place between those siblings. So, it really depends very much on the individual child's circumstances.

LT: I grew up in another country from my sister for various reasons and the times that we spent together were difficult in my teenage years. I am very glad that my parents insisted that we continued to see each other and I cannot see that in circumstances other than abuse going on that that should not be an overwhelming priority in whatever decision is taken for a child that contact with

your sibling - which has sustained me through some of the most distressing and difficult times in my life - should be preserved. I think it's so essential because it is the only thing that will last when both my parents have died.

JM: Yes?

SS: Hello, I run Surviving Safeguarding, I'm the mum that Louise Tickle was talking about, Louise's... sorry, my voice is shaking because I'm really nervous. Louise is writing an article about me, my son was taken from me at six days old and was then returned to me in a car park by a social worker 258 days later. At the eleventh hour the local authority changed their plans from non-consensual adoption to rehabilitation home and re-supervision order. *Re BS* was a key player in my case but it was also a lot of hard work on my part as well. My question to the panel is my son was due to be adopted on a future risk of emotional harm, I hadn't done anything to my child, and my question to you is how do you manage that if you look at a parent you look at somebody like me, I hadn't hurt my child in any way, where is your justification for non-consensual adoption?

JS: That's a practitioner's question really.

JM: Well, no, I am going to ask Professor Selwyn. One of the things that struck me, and I am not attacking you, is that if one lumps together abuse and neglect, abuse and emotional harm, one is actually lumping together two very different things and a lot of people, I suspect, see proven historical abuse as one thing and a risk of future emotional harm as something very different. Now, that I think is simply a view which many people have from a non-professional almost intuitive background and I just wonder, Professor Selwyn, what is your response to that?

JS: It's very hard to talk about a particular case. Neglect—

JM: The point being raised here, although coming from a particular case, is a very general and important point—

JS: About future risk?

JM: Yes.

JS: I can't answer that from my research because we have never examined that as a specific issue for the children in our adoption samples, I can't think of a child where that has ever been the sole reason in the groups of children we've looked at it's always been multiple issues of concern, not just one issue of possible future risk, there's always been significant evidence showing periods of significant harm for children.

JM: Well, I just posed the question, what about the children who are removed at or very shortly after birth where the case is essentially based upon the risk of future harm to that child, which may or may not be pinned to past harm in relation to other child?

CFG: From the legal perspective this is an issue that comes up very often and that you see when looking at... you know, I spend a lot of time looking at various legal blogs, looking at various forums where parents have taken to and this is a persistent question of how can you judge this. And we could answer it in a very legal formalistic manner and say that you are judging on past facts that are proven but I think that Julie's point is so important that in most cases you are relying on more than one fact that you aren't just looking at that one individual feature, has that been proven or not, yes or no, you rely on the whole situation. You do have to prove on the balance of probabilities that there has been harm suffered to a child or there's something to base these fears on.

SS: There hasn't been, that baby's removed at birth.

CFG: But you're basing it at—

SS: That hasn't happened.

CFG: But for example, I mean this law came about because of, for example, you've had a child but you've had a previous child removed for sexual abuse or to go even more extreme, you've killed another one of your children and then you have a baby, what do we do? Do we leave that baby in the care of someone who has proven to have killed a child before, who has proven to have abused a child before? And that is the rationale to it. Now, in a lot of cases, well, the majority of cases they're not that extreme, we're not talking about killing, we're not necessarily talking about extreme sexual abuse but it is a necessary mechanism, I believe, in order to provide that necessary protection for children in those kinds of circumstances.

JS: Claire, I think the other thing is, there's often a violent partner in the background as well, so the social workers are often concerned that domestic violence is likely to occur. Or the other cases often involve drugs and alcohol during pregnancy and we know about the long term impact on those substances on children's development.

SS: May I ask though about parent of past... sorry, I realise I'm taking a lot of your time, but it seems that that being the case there's not a lot of trust in a parent's capacity to change. There was no trust in my case and parents and families that I now talk to and I work with as part of Surviving Safeguarding I hear that over and over that they don't trust me to change, and as parents we're the experts in our own lives. Social workers may be the experts in their fields and lawyers may be the expert on the law but we know our own lives and I just wonder whether there needs to be a greater trust built up whereby that you do trust us to change?

JS: Better assessments, certainly.

SS: Possibly, yes, indeed, indeed.

JM: Martin?

MN: First of all, it's incredibly brave of you to stand up like that. You must have been through what, for any of us who've had children, sounds like a nightmare. I'm glad the system has stumbled, eventually, to getting things right in the end. Sometimes, many times in the past few years, I've been approached by parents who are in the judicial process and write and tell me compelling cases of what appears to be unfair treatment and I say to them this: they need to distance their own particular experience where the system might have got it wrong from the generality of the case for adoption. Because social workers aren't omniscient, they're having to make very difficult judgments and sometimes their trust in parents is grossly abused and then the world falls around them when something dreadful happens to a child. But of course the system sometimes gets it wrong, this is a system of fine judgment and social workers, and I'm not a social worker - I had the privilege to manage 5,000 or so of them in Barnardo's - have a job of incredible challenge to try to make those fine distinctions and distinguish between those parents who will become better parents and those who cannot.

CFG: I think this goes back to a point that Louise was making in that in our criminal justice system we say that we would rather 99 guilty people go free than have one guilty person... hang on.

?: We know what you mean.

CFG: Than one innocent... yes, everyone's with me. We have to look at from the child protection system perspective, where does our balance lie in that? Are we willing to let 99 potential abuse victims stay with the family on the fact that one might be removed wrongly or is it the other way round? Are we willing to remove 99 wrongly on the fact that one might stay abused? I'm not sure if I've got that correctly.

JM: [Inaudible 01:31:24].

CFG: Yes, maths is not my strong point.

LT: Can I just say something quick? I get a lot of feedback from readers whenever I write articles and I think where you're in a situation that you are making such enormous decisions on a civil standard of proof, so just over 50 percent, and you're judging something that is future risk of emotional harm, you have to be utterly scrupulous in a way that having read the number of judgments that I now have in the past year and a half I can't say that I am completely trusting of the rigour with which all of these judgments and nuances and reported meetings are offered up to the court. So, you have a problem of a lower standard of proof, as assessment of future risk and subjective judgments which in a number of cases have been shown to be, let's be kind, erroneous. I think you have a big problem there with public consent for a very draconian measure and it's something that I simply raise as something to think about.

JM: Yes?

IJ: Thank you. My name is Ian Josephs, I have a site called forcedadoption.com, I coined the phrase forced adoption to cover those cases where parents are willing and they love their children enough to fight in court to try and retain them, so it doesn't include people who abandon their children or want them adopted. My only qualification is a law degree from Oxford obtained 50 years ago and it has changed a bit since then. Nevertheless, I'd like to look at things from a completely different angle from anybody else who has spoken. I want to say first of all Britain is the only country in the world, I repeat, the only country in the whole world where pregnant women leave Britain to take refuge in other countries in substantial numbers because they're frightened the social workers are going to take their unborn child at birth for possible, usually, risk of emotional abuse in the future. Why is Britain the only country in the world that that happens? Surely something indicates that something is very, very wrong. Now, the judges say that adoption is the last resort when nothing else will do. Now, I regret to query this statement but it just can't be true because take France, which some people have mentioned, it just doesn't happen there that they have cases of parents trying to cling on to their children and the courts taking them away, it just does not happen. They find other remedies, well, if they find other remedies, as do several other countries, well then adoption is not the last resort, it's the resort of choice as opposed to remedies that are taken in other countries.

And then on the last point really that I want to make is that our distinguished president has said that the... in words to that effect, that the worst thing that judges can do to a parent following the abolition of capital punishment is to take their children, so it's a very serious matter. Well, I'm saying no child should be taken if there's no crime, no punishment without a crime. Vast majority of parents who phone me up and they do it, probably I get an average of six to 12 a day, and these parents, the first thing they say is we've broken no laws, the police haven't come after us, we've done nothing wrong but our parenting is not satisfactory, grandparents come and they're cut out, they're not considered most of the time. It's a very sad, sad thing and I think that most of the injustices that people complain about would stop if only the criteria was that you don't punish law abiding citizens, you don't do it. What's the point of having laws when you say right, you break the law and you get punished? Quite right, otherwise there'd be no civilization but it's wrong to say and if you don't break the law we'll still punish you, give you the worst possible punishment we can since capital punishment was abolished. I know people will say no, we're acting in the interests of the children, it's not a punishment. You tell that to a woman who's just given birth and had her baby taken away because maybe she had a violent partner but she's separated from him for three years but they still take the child, that's just very often the case, or else it's domestic violence through shouting. If they applied that law in Italy not a single couple would have any children at all because they all scream and shout at each other but the family unit is stronger than that in the States. Did you want to say something?

PD: I did but was so interested in what you were saying I forgot what it was now. I'm Paula Donohoe, I'm a social worker, I've been a frontline social worker for 20 years in a variety of Inner London boroughs. I have seen all the spectrum of issues that have been mentioned today, I have seen violence, I have seen crime, I have seen neglect, I have seen drugs, mental health but I have never yet seen the family that cannot be worked with. And I am wondering if the panel thinks that the level of training and knowledge within our social workers is sufficient to make the decisions that they are making and to undertake the very spurious risk assessments that they are undertaking.
[Applause]

IJ: I just want to conclude by saying that I think some of the speakers have muddled up adoption as such, and I don't think there's anybody in the room who's against adoption. But what most people are probably against is forced adoption when parents are desperately clinging onto their children and go to court abandoned, alone, because they're not allowed to bring their families in, they can't bring in the grandparents and aunts and uncles or people to support them. They're alone, alone, desperately trying to keep their children, it must be wrong and they should not persecute law abiding citizens.

JM: Now, I have a question from the back there, challenge from the back there, Martin?

MN: Sorry, I didn't catch your name, you said you were —

PD: Paula Donohoe.

MN: Paula, I accept that's your view that there aren't families that can't be worked with, I don't think the evidence supports that. In fact the evidence suggests that if families don't respond fairly quickly to help and support they're not going to respond at all and that we have delayed too long before intervening to stop the damage being done to children. But you had a secondary question about the training of social workers. As some people in the room will know I've also written a report on the training of social workers, which was quite critical of the education of social workers and the chief social worker of children who's sat just near you has just fulfilled my first recommendation, which was that the education of children's social workers should be guided by her statement of the key knowledge and skills which children's social workers require. So, I think there are some issues about calibre of social workers coming into the profession, about what they're taught, and about standards of education at some universities. I think the social work workforce can be improved. But I think there are lots of brilliant, incredibly dedicated social workers, if I may say every bit as dedicated as you, who come to a very different conclusion that in the best interests of not just a few children but a significant number of children, that the neglect that they're experiencing is something which can't be tolerated any longer. And there are adoptive parents in the room who know - because they're dealing with it - of the effects of neglect and the trauma of their children, particularly in adolescence which can be traced back to the time they spent in parental homes from which they should have been removed

much earlier. I respect your opinion and your passion but the evidence does not support your optimism.

BL: I've got the microphone so I think that says I can speak *[laughter]*. Hello, I'm Bridget Lindley, legal advisor at Family Rights Group. I wanted to raise a question which I think is central to the motion which is about the ground for dispensing with consent. Thinking back to the nineties when the adoption law review was underway, the previous ground that was mooted was that adoption was going to be so significantly better for the child as to justify dispensing with consent. And that was then changed during the course of the various earlier forms of the bill and then the final bill, and obviously became that the welfare of the child requires it. And the response of government when we raised concerns about that, about whether it was rigorous enough was that the Human Rights Act is there and so article 8 will always be looked at etc. So, my question really is, what is the likely impact of the Human Rights Act being repealed on the ground for adoption? And will it be robust enough without the Human Rights Act and potential uncertainty about the European Convention, whether that will affect things?

JM: Can I just ask a question back? Your experience, your view in the typical care case, if there is such a thing, is the legal outcome adoption or not, has it actually been affected by the change in the law in 2002?

BL: My experience is that once the 2002 Act came in there was... it felt through our advice line, our contact with families that adoption was pretty much a rubber stamp by the time it got to an adoption hearing until *Re B* and *Re BS*, and that really stopped the pendulum swinging so far that way and it brought it back. And there's been all the kind of responses to that, some people think it's gone too far but my feeling is that it should be a combination of the welfare of the child and a look at the rights of those involved. So I am concerned about what would happen if the Human Rights Act is repealed.

CFG: So, one of the questions that came to me for the report for the European Parliament and the Petitions Committee was this kind of pervasive myth that England is alone, the only country in Europe which permits non-consensual adoption and the whole purpose of my report was to show that in every single one of the 28 member states it is possible to have adoption without parental consent. To extend that further, if we look to the 47 member states of the Council of Europe, so including Turkey, Russia, Azerbaijan etc, each of those jurisdictions has one. Now, having said that when Mr Josephs was saying about England is the only jurisdiction that does this or that—

IJ: I didn't say that.

CFG: Sorry, not without adoption without consent but has pregnant women fleeing, so on any issue even if it is the only jurisdiction, a minority of one, the truth is still the truth, and the question is not necessarily what other countries are doing. And I'm a comparative lawyer, as you will have seen, so I definitely believe we can learn from other jurisdictions but if we look at, for example, the UN convention on the rights of the child, article 3 of that convention says that

the child's interests must be a primary consideration in all matters that concern them, and that governs the whole of the convention. Except for one article, article 21 that says in relation to adoption the child's best interests must be the paramount consideration. So we see that even the international document has elevated the children's interests in relation to this particular issue. The second issue is in relation to the ECHR and the HRA; what we've seen in the last couple of years is actually the jurisprudence on article 8 coming from the ECHR has taken a massive shift towards the English approach through children's rights. So, we started off 1996 the expression in *Johansen v Norway* that the child's interests may, depending on their nature and seriousness, override those of the parent. So this was a balancing act under article 8, we can now see the recent adoption decisions of *YC v the UK*, *R and H v the UK* in the last couple of years which have said if the child's best interest require parental consent being dispensed with then it must be done, that article 8 requires this. So we see that there has been a massive shift towards greater paramountcy of children's rights in public care decisions before the ECHR.

IJ: Who decides what the best interests are? Who makes the decision? That's the point.

CFG: That is a massive question that I don't think we have time to even start to go into today but—

JM: Well, the answer is a very simple one: contrary to the media myth that it is social workers, it is a judge, that is what the law says. A social worker cannot have a child adopted, only a judge can make an adoption order. Now, I appreciate that may mean that I am now in the shooting line and I have set myself up as a target but the answer is very simple: adoption is and always has been in this country a purely judicial act, nobody else can do it. One of the concerns I know in some quarters is said to be judges themselves are rubber stamps and the judges pay too much attention to inadequate evidence and social workers do not adopt a sufficiently critical eye. That is a different issue. The simple answer to the question is very clear: judges make adoption orders and in that sense the buck stops with us.

JS: I'd also like to add that parental responsibility in some of the other countries is removed by social services committees, it's not always done within the court arena and in every country there are reports of parents fleeing. There's been a big case in Sweden recently where the parents tried to flee.

JM: What I would be interested to know about and I simply do not know the answer is this: Dr Fenton-Glynn's comparative legal work is very, very interesting but it is not just a question of what the law says, it is a question of how the law is applied. And one of the concerns, so it is said, is that we are more enthusiastic some people would say, we adopt these approaches more frequently than other countries, even countries which have a similar legal framework. Now, is there any research—

JS: Yes there is.

JM: —which demonstrates comparative use across Europe—

JS: Yes.

JM: —in different countries of what one might call non-consensual adoption?

CFG: Before you go on, one of the big problems that is faced is, for example, it is not possible to tell always how many children are adopted in each jurisdiction. As we were saying previously there's not always the data collection that this country does. You know a lot more than I do about the processes before but I have said myself in relation to my report it's all very well and good to say what the legal process is but in a way it's neither here nor there. The question has to go back further and looking at the child protection processes, what else is being done? What support do we give to parents? The adoption decision and whether or not we can dispense with parental consent is a tiny, tiny part of it. Sorry.

JS: I agree.

IJ: Only one in 400 care orders are refused according to [inaudible 01:47:55] statistics.

JM: This poor woman has been trying to speak for ages.

JS: Yes, she's been trying to speak.

MBH: Thank you. My name is Maya Birdwood-Hedge, I come from an academic background but for the last two years I have been campaigning against forced adoption and now I have completed my GDL and actually hope to study for a BPTC next year. So, my question... as part of my campaigning I went to Strasbourg in April when they were voting at the Palace of Europe for the declaration to limit the rights of social... to removing children in Europe on the 22nd of April. One very important point in that declaration was that once a child is taken into care all efforts should be made to reunite the child with the family as soon as possible. So far I haven't actually noticed either Martin or Julie Selwyn talking about that, I know Paula has spoken about in a very positive way. In my own experience it is apparent when I mention something to a social worker the response has been no, we have a full care order so we don't need to do anything at all.

JS: Martin mentioned Elaine Farmer's research which tracked children and there was another piece of research done by Jim Wade at York, showing again very similar results that about 50 percent of the children who were returned home were re-abused and re-entered care.

MBH: You did mention that that's right but actually you—

JS: Yes, so he did mention it.

MS: Yes, but you did say... did you say two out of five were re-abused, yes?

MN: Three out of five were neglected or abused again within two years.

MBH: So that means potentially the two others were successfully reunited though, which is—

JS: Yes, absolutely.

MBH: I guess there was another point I wanted to make, you know, because there's—

JS: Sorry, I must come back to you and just say that the vast majority of children in the care system, if you look at where they go, the majority go back home, the majority go home.

MBH: But that's how it should be.

JS: And... exactly, exactly.

MBH: Yes.

JS: So, I wouldn't like to give the impression that either... I know Martin and myself are saying that every child in the care system should be adopted, that's not what I've been saying at all. It's a small proportion of children who are unable to return either to the care of their parents or the care of any relative.

MBH: And of course the other issue I would like to point out—

MN: Oh no, you're cheating now.

MBH: I'm only allowed one question, yes?

MN: That's three.

JM: I am afraid we are running a bit short of time—

MBH: Sorry.

JM: —no, no, thank you very much but there are others who have not spoken at all yet. Yes, at the back there?

AG: Hi, thanks, I'm Anna Gupta, I'm a senior lecturer in social work at Royal Holloway, I also do independent social work in the family courts and was a children's guardian for years, so like Paula I have been around social work for almost 30 years. I'm coming back to... all families lives need to be seen in context and in social context. We have, from Paul Bywaters, quite robust evidence to suggest that... I need to get my glasses on, to suggest that the main factor explaining differential rates of children and child protection plans and children in care proceedings is social deprivation. We know that poverty

makes parenting much harder, it's a very complex relationship, it's not simply about some families don't... most families in poverty don't abuse or neglect their children, it is much more complex than that. It's linked to mental health, it's linked to substance misuse and there is a strong association with neglect the main reason for children coming into care. So, we also have increasingly with this government and likely to be made worse after tomorrow, increasing levels of poverty, of inequality, of poor housing and importantly we know from research that social supports help. Social supports help vulnerable families, we have Jane Tunstall sitting next to me, Professor Tunstall, who has done a considerable amount of research on family centres, on children's centres, these are being decimated as we speak. I'm asking the panel if you think there are any moral, ethical, human rights implications of forced adoption or non-consensual adoption in the system where there are very high thresholds for family supports. Services, youth services, children's centres are being decimated and we have very high levels of any sort of supports, what do you think are the moral and ethical human rights implications?

[Applause]

MN: Of course it would be absurd to suggest that the poverty and what accompanies poverty does not exacerbate the difficulties that some families have in bringing up their children. But I think the proposition that we are particular levels of inequality or relative lack of affluence right now, isn't borne out by the facts. Even taking account of the recent.... I'm sorry Anna don't throw your eyes to the ceiling... I listened to you, don't throw your eyes to the ceiling: These are figures that I checked very recently: a couple with children in the bottom 20 percent in the income distribution in 1997/98 had an average annual income in 1997 prices of around £10,200,, it's 12500 now at 1997 prices, 22 percent higher. And inequality hasn't increased: the number of children living in relative low income according to DWP figures produced three or four months ago is at its lowest level since the 1980s.

But that's not me denying there isn't a problem with poverty and inequality, I'm just not signing up to a belief that somehow, as we're sometimes led to believe, that it's got drastically worse recently, it hasn't. The income of families who live entirely on benefits right now at the bottom of the income distribution are in real terms equivalent to average family income in the 60s. We can't explain child neglect away in financial and economic terms.

JM: I think part of what lay behind the question was whether the public resources which go into the care system are appropriately balanced between trying to support families and not supporting families. A constant complaint I hear in court from parents, sometimes there is some justification for it, often there is not, is if only this local authority had been putting a tenth of the effort into helping us over the last five years compared to the effort it is putting in to taking my children away now we would not be in this position. And that is something one hears disturbingly frequently in court and sometimes one has to say one feels there is some substance to it.

[Applause]

JS: I think that's certainly true in some cases but also there are families where as yet we haven't got the skills or we haven't got the kinds of interventions that will make a difference. There are some families that we just haven't been able to help yet. If you look at Sweden, which is often put on a pedestal as a high welfare system providing good services, they take many more children into care than we do and their services are still not able to turn some family's lives around. So, yes, I accept that the family centres and the community supports that have been dismantled are very important for families but there are still some families that we haven't been able to help.

LT: Can I say something from the perspective of someone who writes about education just as much as writing about social affairs? I have very extensive contacts with head teachers across the country, what I hear from them is that they are now spending school budget on family link workers who are often retired social workers or who have worked in that capacity because they are seeing support services for preventative work with families completely decimated. We all know that Sure Start centres are being closed across the country and have been for quite a few years now but I think when you see head teachers who are managing large budgets deciding that they have no option but to spend teaching and learning budget on family link workers to do the work that previously would have been resourced by local authorities to start preventing problems escalating then you have a serious problem.

AG: I have the microphone.

JM: You are next, yes.

AG: Andrew Greensmith, I'm a district judge on the northern circuit and I deal with adoptions on a daily basis. The question of consent for parents is to me sometimes of concern, I'm frequently faced with a situation where parents don't consent but they don't actively oppose and that's what the court is told. And I'm also faced with situations where parents' consent sometimes at the last minute and I won't go into anecdotes but it's happening on a regular basis. What I think there's a role for is parents being offered more support around the question of consent. I think there may be a role for perhaps a mediation role for somebody, a third party, independent to step between the local authority and the parent at the critical time so the parent really fully understands what consent means and really understands what the long term effects are, and that I think could be say perhaps a mediation role.

[Applause]

JS: That was what the independent social worker was meant to do.

JM: Thank you.

PS: My name's Peter Sandiford, I'm chief exec of PACUK and we're an independent adoption support agency who are providing support to birth parents, adopted adults and adopted families. I'm also an adopted person

who spent the first two and a half years of my life in care and I haven't got a life story book or any knowledge of my past. So I understand adoption from all dimensions. I really like the point you were making because I think what we have is a requirement to provide advice and support to birth parents pre order and I think the amount of energy that is put into that is questionable and the amount of commitment that is put into that is very variable around the country. We work with a lot of local authorities so we see that variance there and I think it is really important primarily for that child because that is the primary interest. But then the other thing we're actually seeing and most of our work is with adoptive parents and the children and a common denominator, which in most of the cases I've looked at and have been working with recently has been the impact of the delay in that placement and the length of time that child has waited for the placement, and the amount of change they have had, the numbers of changes.

We've talked about in fostering there being ten changes frequently quoted, well, for some it's a lot more than that even before the age of five or six, and it's that bit that I really feel we need to do something about. We need to get the process right so that the right decisions are made based on evidence but then we can work post order with birth parents because so often there's a cycle then of losing children, and that is something I know we can do something about. I've worked with projects before which have done something about that, helping parents not lose subsequent children by helping them change and change the attitudes, change their use of drugs, change the neighbourhood they're living in, move away from an abusive partner, whatever it might be, that is work that can be done if we commit to doing that work. But our primary interest has to be that child and making that child's future secure and my experience at the moment is for so many children that are adopted they have had such traumatic early lives that it is really hard to give them that secure future.

[Applause]

MR: Oh hi, I'm Mair Richards, I'm an adoptive parent but prior to that I've recently retired as a paediatrician so I have worked in child protection and I also worked as a medical advisor for adoption and fostering. I've got two adopted children who I adopted as older children from separate birth families and they're now both adults. I think the views of those who challenge forced adoption, those who are promoting kinship care and adoptive parents are not as different as people might think. Both my children would have really benefited if their birth parents had been given proper intensive support. I'd like to ask all the panel members, how do we ensure that there is really good decision making and really high quality support to enable some parents to turn things round? My children were seven and my younger child was four when they came to me, after, as my colleague here from PACUK said, after far too many moves in the care system that added damage. And subsequent to adoption the services have not responded to their needs so that they've been damaged in utero by substance and alcohol and cortisol, they've been damaged in their early life by moves between birth family members, neglect and abuse. They've then been abused in the care system by multiple moves

and what I wasn't prepared for, I thought as a paediatrician who'd done a lot of child protection work I was aware of their level of need, well, of course I wasn't. And Julie Selwyn in her recent research showed just how needy our children our children are, but they're still not helped further down the line by the system we as adopters are blamed. So, I'd like to ask each of the panel how you would ensure better decision making and really effective support at each stage of the process?

[Applause]

LT: Okay, I'll go quickly and I would say you have to take it away from being a political football and stop it being something that politicians try to use lazily and unthoughtfully as a way of convincing the public that there will not be another Baby P. Because I think as long as you have that ideological drive for a particular route to be taken bearing down upon social workers and commissioners then you will not get the commitment to the kind of intensive support for birth families that you were talking about, which may not allow them to keep their child but might reduce the amount of damage that is done to the child while they are with that parent, and potentially could reduce the damage to the parents so that they may be able to parent successfully in the future.

CFG: I'll pass over to the experts.

JS: Well, I was going to make two points, one is that often when children are removed no support goes into the birth family so the children come into the care system and then the parents are just left on their own, that is a point where support should be going into families. The other thing is that all the action goes on around the care order and it's a contested area, people are in dispute and again that is a difficult time for providing support. It's often after the care order has been made and birth parents may be realising that the child may be being placed for adoption that the work can actually begin to support parents, to think about how effective contact could take place. It's just that there are key points where support isn't provided and we need to have support throughout the lifetime.

JM: I think in a sense one of the problems is that the making of the adoption order in this kind of case is seen as the end of the process, whether one is looking to the natural parent who has lost a child or to the adoptive parent. And it is the beginning of the next stage in the process. In the case of the adoptive parent and the adoptive child there has got to be the support for all the reasons you indicated, and I ask recurrently how often is that support available at the right kind of level, the right kind of intensity and for the right kind of period? Equally, however, and probably in an even more difficult position is the complete absence at present, on any kind of organised institutional basis, of post adoption order support for the parent who has lost the child. We are all familiar and it is heart rending as a judge, with women who just keep on having babies in the desperate hope that one day a judge will take a different view. And all they are doing, and there is a lot of work being done on repeat care proceedings, all they are doing is perpetuating

problems. And it is not fair, and I do not shrink from saying this, it is not fair on the mothers. Is it fair on the children they are producing who, if there was proper post adoption support following child number one, perhaps you would not have children number two, three and four being born in circumstances where they go straight into the system. We are very bad at doing that.

And if I can just plug something, I do not know how many people here have heard of PAUSE but PAUSE is a very innovative concept, a very innovative scheme which is about to start in a number of different areas which as it were picks up where FDAC leaves off. FDAC is designed to try and maximise the prospect of a mother, usually a mother, sometimes a father, who has had problems of substance abuse, maximising the chance that they can keep that child, but sometimes that proves impossible. PAUSE as it were, picks up at that point and says well, let us try and solve the mother's problems, whether economic, social, domestic or whatever so that the next time that she has a child she is going to be in a better position to look after that child and in a much stronger position to avoid care proceedings or fight them off. And that surely is what we ought to be doing as a society – and hard economic reality suggests that actually it saves public authorities lots of money. I do not know what a care case costs, no doubt the town hall bean counters can quote, as it were, the unit cost per care case of a typical care case. If with some combination of FDAC and PAUSE and similar projects one can prevent the second and the third care case and postpone them so that they either never happen or the next one does not happen for four or five years, why not spend the money which is being saving on those care proceedings in more innovative ways, supporting both the adoptive parents of child number one and the natural parents of child number one with a view to remedying the long term problem? I think we are very bad at that, *[applause]*, but I do empathise, it does seem to me that what is needed is both more support to the adoptive parent, which was the question you raised but also more support post adoption for the natural parents. But in terms of the present process that is simply the end of it: the case closed, in nine months' time the next case arises. Time for one more question, I am afraid.

JS: Okay, John Simmonds, I'm director of policy research and development at Coram BAAF, I'm a social worker and an adoptive dad. I would hate it if this debate came to an end with a kind of sense that this system that we've actually developed has not been done with a lot of care. I remember in the 70's and 80's Jane Rowe did significant research looking at children's pathways through the care system and identified particularly the issue of drift the minute these children were either in residential care or in foster care without a strong sense of who they belonged to, what relationships were significant in their lives and what was going to happen to them in the longer term. And I think as a result of that this sector as a whole, both the courts, social policy makers and practitioners really grasped hold of the enormous significance of permanency planning and putting a legal framework around that sense of permanence that all children need. And I think that all the developments that have gone on in child adolescent and adult development and I think that many of the things that have been said this evening is that family life and family relationships is absolutely at the centre of that.

I think I also feel somewhat anxious about this debate that it's either adoption or children living with their birth parents because we have a wide range of orders, whether that's care orders, special guardianship orders, child arrangement orders and indeed adoption. And we have a whole variety of placements which are possible for children that we have to explore whether that's a child who's just been born or a 17 year old or an 18 year old, and that there is a very strong care planning system decision making and evidence based framework that we should all apply ourselves to to actually think about this child in these circumstances, what is best for them and what is going to create a family life. And all of that is still within the context of the Human Rights Act, the European Convention, the UNCRC and a Children Act that actually talks about the importance of children going back to their birth parents if that's at all possible. That's the paramount pathway that a child should take or going to live with their extended family members, that's the second one, and it's only then when those options are not worked out and the evidence is that that's not possible for the child in terms of creating a family life that we know will last for them that we then start to think about whether adoption is the right option, and that even then tends only to apply to very young children.

So, I think there is a lot of controversy, it does feel as though it's very close to these life and death decisions that we absolutely hate having to make but it's a system which does in the UK really try to grapple with that and I hope that the consequence of this fascinating debate is that we continue to recognise the tradition that was started by Jane Rowe and others in the 70s and 80s and that the developments that are currently going on give us a balanced child centred framework for continuing to give children what they absolutely need, which is a family for life.

[Applause]

JM: If you are very quick, very quick.

PB: Hi, Pete Bentley, I'm the chair of local authority adoption panel, qualified social worker and for many years was a consultant with BAAF. My question is very brief, it appears that the government, the prime minister in a press release on the 2nd of November stated the government intended to look at revising adoption legislation and my contacts in the Department of Education, and this may not be accurate, are saying that the President of the Family Division is regarded as being anti-adoption. And I just wondered if Martin, Sir Martin would like to comment on that? *[Laughter]*. Because obviously Sir Martin is very close to government policy on adoption.

MN: I'm fairly close to you as well Peter having received so many emails from you over the last few years. I've never heard anybody of any significance in the Department for Education, where there's a great deal of anxiety about the recent drop in placement orders, suggest that that's the fault of one individual, or one judge. That's nonsense. I think you need to speak about it to your sources in the Department of Education, if indeed you have any.

PB: Well, you're questioning my sources. I'm glad to hear you say that, so what is the intended change in legislation that you foresee happening?

MN: That's not for me to say, that's for ministers to say when they've made some decisions.

PB: Okay, but Sir Martin, you are a major advisor on that and you know what they are saying.

MN: And I'll carry on advising ministers but not you, Peter.

PB: I don't want you to advise me. Thank you, Sir, Martin.

JM: Well, I think on that note *[laughter]* thank you for that contribution. I am sure we all have our views as to what the answer to that question may be – I am not going to hazard in public my own view – but there we are. I am afraid it is testament to my very poor chairmanship that we have overrun by 15 minutes but I think the extra time was very well worth it. Thank you all very much for coming and contributing. What this demonstrates is that there are very strong views engaged here, there are, and I do not criticise people for being passionate about it, there are strong passions in this. This debate was never going to resolve the issue, it merely demonstrates that it is an important and, I have no doubt, a continuing issue. These are things which have been debated for decades in one shape or another. The only thing I am confident about is that adoption as we will understand it and practise it in 30 years' time will bear very little relation to adoption as we practise it today.

If one looks back to adoption as we practised it and understood it in the 1960s and early 1970s it is very, very different indeed from adoption today. I may be wrong but a greater judge than I was fond of saying, Sir Matthew Thorpe, that nothing survives in family law for more than about 30 years. And I will not be around in 30 years' time but if we resumed this debate in 30 years' time, I am not at all confident that we would be framing the debate in the way in which we have framed it today. That is something that we have to factor in. I am not saying anything which is not well known, but one of the things which haunts me as a judge dealing with adoption is the statute that requires us to have regard for the future of the child throughout that child's full, whole life. Now, in 2015 that means that I am supposed to be looking at where that child will be in the early years of the 22nd century. Well, the only certainty and even this is perhaps not a certainty is that in the early years of the 22nd century when the child I am making an adoption order in relation to today is towards the end of that life, views about adoption will then be very different indeed. So, that is a rather long winded way of saying I do think, and I have said this before, that a certain amount of humility is required by all professionals involved in the care system in relation to adoption. Of course all we can ever do is do the best we can, having regard to and giving effect to the best up to date thinking, but we do perhaps have to remember that the best up to date thinking today may be discredited tomorrow. But thank you all very much for contributing to this debate and in particular my thanks on your behalf to our four speakers.

[Applause]

[Recording ends]