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The Innocenti Digest is compiled by the UNICEF International Child Development Centre to provide reliable and easily accessed information on a critical children's rights concern. It is designed as a working tool for executive decision-makers, programme managers and other practitioners in child-related fields.

INTRODUCTION

This *Digest* looks at intercountry adoption as one of a series of possible solutions for children unable to live with their families. Broadly accepted international instruments specify the conditions under which intercountry adoption is to be undertaken if the rights and best interests of the children concerned are to be protected and fully respected. Although substantial efforts are being made to implement the standards and procedures set, current practices are often in violation of these norms. This *Digest*, therefore, sets out to identify abuses of intercountry adoption as well as the measures required to combat such violations and to uphold 'best practice' in this sphere. Discussion of arguments for or against the concept or practice of intercountry adoption falls beyond its scope.

Historical overview

When it first began to be practised widely, in the aftermath of the Second World War, intercountry adoption was an ad hoc humanitarian response to the situation of children orphaned by war. Families in the United States mainly, but also in Canada, Australia and Europe, adopted orphans from Germany, Italy and Greece, all countries where emergency situations prevailed. To a lesser extent, children were also adopted from China and Japan.

The Korean War in the 1950s created a new generation of abandoned or orphaned children welcomed into adoptive homes in the West. Many of these children were Amerasians, fathered and left behind by U.S. servicemen. Together with their mothers, they faced severe discrimination in their homelands, as did their Vietnamese counterparts a decade or so later. In the late 1960s, adoption became tinged with the ideology of 'solidarity with the Third World' then current in industrialized countries, implying practical manifestations of sharing responsibility for the burden facing the newly decolonized nations.

Initially, concerns about intercountry adoption were linked mainly to problems arising from the different legal systems in receiving countries and countries of origin. Also of concern were the perceived problems of adjustment of the children in their new environment and the ability of the adoptive parents to meet their special needs in this regard. Increasingly,

the ethical issue was raised as to whether it is desirable to remove a child from his or her country rather than to provide necessary assistance and protection on the spot.

Consultations on such questions were already taking place at the international level in the mid-1950s. In 1960, a seminar on intercountry adoption, organized in Leysin, Switzerland, under the auspices of the European Office of the United Nations, formulated the first set of principles in this sphere.

Domestic, intercountry and international adoption

Adoption is a welfare and protection measure that enables an orphaned or definitively abandoned child to benefit from a permanent family. The practice of adoption can be subdivided into domestic (or in-country, or national) adoption, intercountry adoption and international adoption:

- A *domestic* adoption is an adoption that involves adoptive parents and a child of the same nationality and the same country of residence.
- An *intercountry* adoption is seen as one that involves a change in the child's habitual country of residence, whatever the nationality of the adopting parents.
- An *international* adoption applies to an adoption that involves parents of a nationality other than that of the child, whether or not they reside — and continue to reside — in the child's habitual country of residence.

Thus, a Brazilian girl adopted by Brazilian citizens living in Italy is involved in an intercountry but not an international adoption. If she were adopted by Italian citizens resident in Brazil, the form of adoption would be international but not intercountry. It would be both international and intercountry if she were adopted by Italian citizens in Italy.

The distinction is made in the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (see page 5) to limit the scope of this instrument to only those adoptions involving the child's transfer to another country.

The Leysin principles underpinned all subsequent international instruments dealing with this subject. A World Conference on Adoption and Foster Care, held in Milan, Italy, in 1971, again drew international attention to the inadequacy of international regulations to safeguard the adopted child's interests.⁽⁵⁴⁾

It was later in the 1970s, however, that serious concerns began to be expressed over the 'mass exportation' of children from economically developing nations. A full-fledged and clear 'demand' for adoptive children had become apparent in the West and was accompanied by an ever-larger throng of agencies and intermediaries using more or less acceptable means to satisfy it. This trend was partly the result of the coming of age of the 'baby boom' generation and the social pressure exerted on couples to have a child. Adoption as a practice had also become more socially acceptable than in the past.

In 1982, an important step was taken towards promoting internationally recognized standards for services to ensure the protection of children. Professionals from different countries worldwide endorsed the so-called Brighton Guidelines for intercountry adoption, which were based on the draft United Nations Declaration on Foster Placement and Adoption and prepared by various non-governmental organizations (NGOs), notably the International Council on Social Welfare (ICSW) and the International Social Service (ISS), as well as the United Nations Centre for Social Development and Humanitarian Affairs. (The Guidelines were subsequently revised and endorsed during an ICSW conference in Hong Kong in 1996.)⁽³²⁾

While demand for children in adoption has continued to rise in the industrialized world, fertility has fallen, and consequently the number of children who can be considered for domestic adoption has declined. Some of the demographic and social changes contributing to these dwindling numbers are the greater availability of contraceptive aids, the legalization of abortion, the higher workforce participation of women, the postponement of childbirth to later ages — and an increasing destigmatization of single motherhood, as well as state support for single mothers in many cases, leading to greatly reduced abandonment rates.

This 'structural demand' for children in adoption in high-income countries has been met with the 'structural supply' of children

Child welfare measures

If, despite appropriate assistance and support, a child's family or extended family is unable or unwilling to ensure the child's development, a form of alternative care needs to be found, which can include:

- **Institutional placement:** the simplest response to a child in need of care and protection, usually carried out because no viable alternatives have been set in place, because due account is not taken of existing alternatives, or because ongoing specialized care is required.
- **Fostering:** an authorized placement with a 'foster' family, supervised by the social services and usually involving financial compensation to cover the additional expenses incurred.
- **Guardianship:** in certain forms, a socio-legal process where a person, generally a relative, is appointed to take responsibility for the child and his or her property until the child reaches the age of majority.
- **Kafala:** a form of care under Islamic Law, recognized by legal act and considered definitive. Under kafala, the child does not take the name of the host family, nor does he or she acquire inheritance rights, reflecting the precept of Islamic Law whereby blood ties cannot be modified.
- **Adoption:** adoption can be 'simple', in which case the child maintains some financial and legal ties with his or her birth family (for instance, inheritance rights) and may even retain their name. The vast majority of adoptions today, however, are 'full', which means that they irrevocably and completely terminate the relationship between the child and his or her birthparents, and create in its place an analogous relationship between the child and the adoptive parents.

'available' for adoption abroad in low-income ones. Over the last several decades, increasing numbers of children have been abandoned and orphaned in the developing world in the wake of socio-economic change, especially the rapid urbanization in Latin America, Africa and certain Asian countries; the upheavals in Central and Eastern Europe; and the wars, ethnic conflicts and natural disasters that affect populations in different parts of the world.

Intercountry adoption, therefore, has come to represent in many ways the convergence of 'demand' and 'supply'. One of the more recent concrete expressions of this lies in the use of the Internet to promote adoption in ways that often involve the marketing of children — as well as spawning private adoptions and offering 'shortcuts' to the legal adoption process. The "language of economics" has, therefore, "made its appearance", transforming a once purely humanitarian measure into "a more complex and controversial social phenomenon".²¹ In other words, intercountry adoption, which should be viewed as one option among a series of **child welfare measures** for an individual child in need of care and protection, is no longer always the purely child welfare measure it was originally intended to be. In a certain number of cases, instead, it has become a lucrative profit-making activity, sometimes involving major financial interests and its own lobby, in which children are treated as commodities.

Statistics and flows

The only identified study²⁹ seeking to gauge the global incidence of intercountry adoption,

written by S. L. Kane and published in 1993, found that "at least" 170,000-180,000 children were involved in intercountry adoption in the 1980-1989 period. Intercountry adoption over that decade increased by 62%, and 90% of all children were drawn from only 10 countries. At the same time, the number of sending countries had jumped from 22 in 1980 to an astonishing 68 a decade later. The major sending region was Asia, followed by South America. The country that had sent the most children abroad was Korea, which had recorded 61,235 adoptions in the period, followed by India (15,325) and Colombia (14,837).

Kane encountered serious difficulties in quantifying intercountry adoptions. In several receiving countries (Austria, Ireland, Germany, the United Kingdom), the collection of statis-

tics on intercountry adoption was not centralized. In others (Belgium, Switzerland), data were probably slightly high as they related to the number of visas granted for adoption purposes rather than the actual number of children adopted from abroad. Statistics were not available at all in some other receiving countries (Israel), or were apparently only available for certain provinces (Quebec, Canada). Some countries (Finland) had no breakdown by country of origin. Sending countries were even less likely than receiving countries to have reliable and complete statistics.

Today as in the past, the United States is the world's foremost **receiving country** of foreign adoptive children, responsible for roughly half of all adoptions. (It does not, however, have the greatest number of foreign adopted children per capita, a record held by Sweden, a country of 8.8 million, which since the end of the 1960s has received some 40,000 foreign children). According to official data, U.S. parents adopted 85% more foreign children in 1997 than they did in 1993 (13,620 compared with 7,377), with a total of more than 50,000 foreign adoptions over the period. (At the same time, every year some 500 U.S. children — most of them African American — are reportedly adopted by families in Australia, Canada and Western Europe. Because the United States has no exit-visa requirements and therefore cannot keep count, the number could be far higher.)²⁸ Other major receiving countries are Canada, France, Italy, the Netherlands, Sweden and Switzerland. As data from seven major receiving countries show, there has been a clear upward trend in the annual numbers of intercountry adoption over the 1993-1997 period.

Links are frequently formed between certain sending and receiving countries. Official data

The Upward Trend in Intercountry Adoption, Examples of Some Major Receiving Countries 1993-1997

	1993	1994	1995	1996	1997	1993-7
Canada	1740	2045	2022	2064	*1799	**9670
France	2783	3075	3028	3666	3528	16080
Italy	1696	1712	2161	2649	2019	10237
Netherlands	574	594	661	704	666	3199
Sweden	934	959	895	908	834	4530
Switzerland	923	741	665	742	733	3804
USA	7377	8333	9679	11340	13620	50349
Total	16027	17459	19111	22073	23199	**97869

* Data for 1997 are preliminary.

** Considering that data for Canada are incomplete, the total figure should be higher.

Sources: **Canada:** Ministry of Community and Social Services, 1998; **France,** Ministère des Affaires Étrangères, 1998; **Italy,** Ministero di Grazia e Giustizia, June 1998; **Netherlands:** Ministry of Justice, May 1998; **Sweden and Switzerland,** International Social Service, Geneva, 1998; **USA:** U.S. State Department, Bureau of Consular Affairs, July 1998.

show, for instance, that from 1993 to 1997 U.S. families tended to look principally to Russia for children in adoption (10,442), followed by China (10,177) and Korea (8,406). Recently, Spain has preferred Colombia to all other countries of origin, although it maintains strong ties with India and China as well. Italy instead, over the 1993-1997 period, adopted foreign children mainly from Romania, Brazil and Russia. Some intercountry adoption is evident between Asian countries, one example being the adoption of Thai children by Malaysians.⁽⁸⁵⁾

The adoption policy of given countries of origin varies with the political and economic situation. Often moratoriums on intercountry adoption are called to allow for investigation of abuses or the establishment of an adequate legal framework. (The latest example is the suspension of all adoptions from Guatemala, announced in December 1998 following widely publicized allegations of adoption fraud.) When borders are closed, demand tends to shift to other countries, a pattern particularly evident in Central and Eastern Europe.

Intercountry adoption was extremely rare during Socialist regimes, and was practically nonexistent in countries that were to see a surge of adoption during the 1990s 'transition'. In Albania, faced with abuses of a small but unprecedented number of intercountry adoptions, the President took rapid action, prohibiting all foreign adoptions in mid-March 1992 and requesting international assistance in drafting new laws. The situation was far more dramatic in Romania: a country that had registered fewer than 30 intercountry adoptions in 1989 witnessed the departure of more than 10,000 children from January 1990 until July 1991, when the President of Romania called a moratorium (which was to last nine months) because of the abuses and trafficking that were taking place. From this point

onward, there has been a noticeable increase in intercountry adoption in other countries in the region such as Bulgaria and, especially, Russia.

Reactions to the climbing numbers were sometimes fierce. In 1992, Dr. Alexandra Zugravescu, then head of the governmental Romanian Committee for Adoption, called the massive outflow of children from her country "a national tragedy". Mrs. Shevardnadze, First Lady of Georgia, in an article that appeared in the *New York Times* in June 1997 entitled 'Hands

Off Our Babies', claimed she would halt all intercountry adoptions from her country, even though the numbers of children involved were still modest.⁽⁸⁷⁾ At the time, a ten-month *de facto* moratorium was already in effect, which ended in theory when President Shevardnadze signed a new law on international adoptions on October 17, 1997. Uncertainty over adoption procedures, however, delayed implementation of the new law for several months.

THE INTERNATIONAL NORMATIVE FRAMEWORK

Although a quantitatively minor phenomenon when compared, for example, with other child welfare measures, intercountry adoption has provoked a great deal of attention in international legal circles, which is indicative of the importance and fundamental nature of the qualitative problems involved. The development of international law on this question has also reflected the rapidly increasing level of preoccupation about the large-scale abuses of the spirit and procedures of intercountry adoption.

In addition to the many agreements and conventions that exist at the regional level, particularly in Latin America and in Europe, a number of international declarations (which are legally non-binding) and conventions (which are binding) set out principles and standards regarding intercountry adoption. The principal ones are discussed below.

The United Nations Declaration

The 1986 United Nations Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption, Nationally and Internationally (the United Nations Declaration) states that,

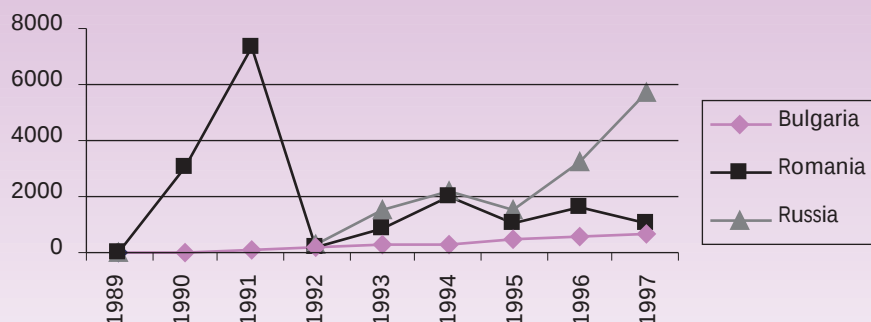
If a child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the country of origin, intercountry adoption may be considered as an alternative means of providing the child with a family (Art. 17).

It sets out the main concerns as essentially to ensure adequate counselling of all directly involved and professional observation of the relationship between the child and the prospective adoptive parents before the adoption takes place. The Declaration, moreover, stresses prevention of abduction and improper financial gain, as well as protection of the child's legal and social interests. Interestingly, it contains no references to such phenomena in relation to domestic adoption.

The Convention on the Rights of the Child

The provision of the 1989 United Nations Convention on the Rights of the Child (CRC) specifically dealing with adoption is Article 21, which sets out the basic principles to be followed when considering domestic and intercountry adoption for a child (*see back cover*). The original draft of

► Intercountry Adoption 1989-1997, Bulgaria, Romania and Russia



Source: United Nations Children's Fund, International Child Development Centre, TransMonee database, except for Romania (1989-1994), Central Romanian Authority; and Russia (1991-1992), State Party report to the Committee on the Rights of the Child.

this article began with the obligation of States parties to “facilitate” adoption. By the time the text of the article came up for a second reading, however, the United Nations Declaration had been approved and the 1980s had provided an unprecedented number of examples of gross abuses of intercountry adoption practice. The result was that in its final version, although Article 21 recognizes “that inter-country adoption may be considered as an alternative means of child’s care”, its original wording was changed completely to stress the State party’s duty to “ensure that the best interests of the child” are “the paramount consideration” in any adoption and that safeguards and procedures are fully respected. It is important to note that this is the only place in the CRC where the best interests of the child are ‘the’, and not just ‘a’, primary consideration.

Article 21 is by no means the only provision in the CRC with direct relevance to intercountry adoption, however. Thus, Article 35 specifically provides that there must be adequate protection from sale, trafficking and abduction of children. More broadly, Article 8 recognizes the child’s right from birth to an identity (name, nationality and family relations) and to protection from being unlawfully deprived of that identity. Article 7 establishes “as far as possible, the right to know and be cared for by his or her parents”. Article 12 stipulates the child’s right to have his or her views respected and to be heard in any judicial or administrative proceedings affecting the child. Article 20.3 stresses that when decisions are made about alternative care “due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background”.

Article 25 on the need for periodic review of placement is also relevant since many children potentially eligible for adoption live in orphanages or other institutions, where they very often languish or are ‘forgotten’ until adulthood. A periodic review of the child’s placement will ensure that, at the earliest possible time, decisions are taken by parents, guardians or the competent authorities relative to the child’s reunification with his or her birth family or extended family or permanent care by an adoptive family.

The CRC envisages intercountry adoption only when it has been established that no substitute family or other suitable caring environment is available in the child’s country of origin. This ‘subsidiarity’ principle corresponds to the right of the child “deprived of his or her family environment . . . to special

protection and assistance provided by the State” (i.e. the State in which the child has been living) (Art. 20.1).

The Hague Convention on Intercountry Adoption

The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention) was adopted on 29 May 1993 and entered into force on 1 May 1995. More than 60 countries and about 10 international NGOs took part in its drafting. It has as its principal objectives:

- (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law;
- (b) to establish a system of cooperation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- (c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention (Article 1).

The Hague Convention was therefore designed principally to set up a mechanism for international cooperation to give practical effect to the CRC provisions relating to intercountry adoption. (See pages 11, 14-15 for a more detailed discussion.) It provides for responsibilities and tasks to be shared between the States of origin and the receiving States, while respecting organizational diversities and national legislation. One of its basic premises

is that adoption is not an individual affair, which can be left exclusively to the child’s birthparents or legal guardians, or to the prospective adoptive parents or other intermediaries, but rather a social and legal measure for the protection of children. Consequently, procedures for intercountry adoption should ultimately be the responsibility of the States involved, which must guarantee that adoption corresponds to the child’s best interests and respects his or her fundamental rights.

The Hague Convention essentially turns the ‘principle’ of subsidiarity into a rule, recognizing that “intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of Origin” (emphasis added). This Convention reflects an internationally recommended policy concerning different child care measures, which — while recognizing that each child is special and that decisions affecting the child’s life must be based on a full respect for his or her uniqueness — sets out the following *hierarchy of options*, generally held to safeguard the long-term “best interests” of the child:

- *family solutions* (return to the birth family, foster care, adoption) should generally be preferred to *institutional placement*;
- *permanent solutions* (return to the birth family, adoption) should be preferred to *provisional ones* (institutional placement, foster care);
- *national solutions* (return to birth family, national adoption) should be preferred to *international ones* (intercountry adoption).

As at 24 November 1998, there were 28 Contracting States and a further 11 that had indicated their intention of ratifying by signing the treaty. ●

Contracting States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption

Sixteen ‘sending’ countries (↓) and 12 receiving countries (↑) had ratified or acceded to the Hague Convention as of 24 November 1998.

Andorra ↑	Costa Rica ↓	Mexico ↓	Philippines ↓
Australia ↑	Denmark ↑	Moldova ↓	Poland ↓
Burkina Faso ↓	Ecuador ↓	Netherlands ↑	Romania ↓
Burundi ↓	El Salvador ↓	New Zealand ↑	Spain ↑
Canada ↑	Finland ↑	Norway ↑	Sri Lanka ↓
Colombia ↓	France ↑	Paraguay ↓	Sweden ↑
Cyprus ↑	Lithuania ↓	Peru ↓	Venezuela ↓

Source: <http://www.hcch.net>

ABUSES OF INTERCOUNTRY ADOPTION

During the adoption process, violations of the most basic rights of the child can occur. These violations are often perpetrated under the cover of the supposedly humanitarian aim of the act and 'justified' by the simplistic view that a child will somehow always be 'better off' in a materially rich country. Illegal acts and malpractice can involve criminal networks, intermediaries of all kinds, and couples prepared to carry out, be accomplice to, tolerate, or simply ignore abuses in order to secure an adoption. The diversity of the methods used, and the wide range of actors that may play a role, demonstrate the vastness of the task of protecting the rights of the child in intercountry adoption. The challenge is all the greater in that, in many if not most cases, the resulting adoption bears all the hallmarks of a perfectly legal procedure.¹⁰

"Adoption for commercial purposes"—clearly a misnomer, since it is of course the procedure, not the purpose, that is "commercial"—is an area monitored by the Special Rapporteur of the United Nations Commission on Human Rights on the sale of children, child prostitution and child pornography. Child trafficking often involves the collusion of a large network of individuals (typically unknown to one another), who can range from 'spotters' on the lookout for pregnant girls; to hospital personnel, doctors and midwives; to birth registrars, lawyers and passport and visa officials. This long chain of corruption can extend to receiving countries, where intermediaries are available to place the trafficked children. A 1994 report emphasized the clandestine market that had grown up around intercountry adoption in several former Communist countries. Reports of trafficking also came from Turkey and Greece,⁹⁴ from Jordan and from various countries in Latin America.

Methods and means

As concern over non-respect for standards grows and legal and procedural loopholes are gradually eliminated, so new methods are employed to circumvent established norms and laws in response to the continuing high demand for children in adoption. It would therefore be impossible to give a comprehensive listing of abuses, but the following are

among the major methods whose use, singly or in various combinations, has been documented to date:

Seeking changes in policy or practice

- Attempts to persuade the competent national authorities to release more children for adoption or to make exceptions to certain laws or procedures in specific cases. Such attempts may go as far as applying highly questionable political and economic pressures.

Illegally obtaining children for adoption

- Abduction of babies and infants by a variety of methods, ranging from simply kidnapping the child in the local marketplace to organizing his or her abduction by a 'baby-sitter'. To cite just one example, in Honduras in 1992, senior government officials reportedly acted as receivers for infants abducted from poor families, hid the infants in 'fattening centres' (including one official's own home), and after a safe interval, sold them to foreign couples for \$5,000 each. The scandal led the Government to call an immediate halt to intercountry adoptions.⁸¹
- Identifying potentially vulnerable mothers — especially adolescent single mothers — and inciting them to give up their future or newborn baby. This pressure may be exerted before the birth, at the maternity clinic or hospital or else in the institution. In some cases, it is ostensibly founded on the moral or religious opinion that a mother who has a child out of wedlock is not the most suitable person to bring up a child properly; in others, on the conviction that the child will necessarily be better off with a couple, especially if they are wealthier. Such pressure is sometimes reinforced by the offer of free pre- and post-natal care.
- Falsely informing the mother that her baby was stillborn or died shortly after birth in order to enable the child's anonymous removal from the maternity clinic.
- Exchange of a child for financial or material rewards going to the family, the director or staff of an institution, or sometimes to the institution itself. Among many possible examples, in Albania in 1992, one international mission found evidence of children being handed over by birthparents in exchange for consumer goods (television sets, cameras, watches) or money.⁸⁰ Equally, a Washington-based intermediary, responsible for 'facilitating' the entry of more than 600 Russian orphans into the United States between 1992

and 1994, admitted in one interview to giving orphanages medical supplies, clothing, toys and food. Rather than simply offering money, she asked what people needed: "Then they feel good", she claimed. "They don't feel they're selling the children."⁸⁴

- Offering women financial incentives to conceive a child specifically for adoption abroad.
- Providing deliberately misleading information to the birthparents on the consequences of adoption in order to obtain their consent, e.g. assuring them, or allowing them to believe, that they will be able to maintain links with, or receive news of, the child once the adoption takes place. In countries where simple adoption is the norm (for example, Korea), it is easy to deceive parents in this way.
- Providing false information to prospective adopters. The U.S. Bureau of Consular Affairs, for instance, cautions that one of the most common adoption 'frauds' involves intermediaries who offer a supposedly healthy child for adoption knowing that the child is seriously ill.⁹⁸

Illegally securing permission to adopt

- Falsifying, or falsely obtaining, certificates of aptitude to adopt that are accepted by the authorities in the country of origin of the child to be adopted.
- Corruption of local or central officials and judges in order to obtain favourable decisions. Corrupt judges may, for example, accept false documents purporting to contain the consent of the birthparents.

Illegally avoiding the adoption process

- Making false birth or paternity declarations. Relatives or 'fake' mothers sometimes relinquish a child they are temporarily caring for, pretending to be the birthparents. In other instances, both the birthmother and the prospective adoptive parents play an active role, as when, through prearranged agreement, the birthmother registers in the hospital in the prospective adoptive mother's name or assigns paternity to the prospective adoptive father, in both cases eliminating altogether the need for an official act of adoption.
- Taking a child through a third country. One example from the early 1990s concerned couples from Ireland who had not followed all legal channels when attempting to adopt Romanian children and therefore had brought them home via England. Since they were in transit in England, they were not checked there, and there are no systematic border controls between England and Ireland. The families then eventually sought to register the adoption with the Irish authorities, assuming, erroneously, that it would be seen as a 'fait accompli'.

Consequences of illegal acts and malpractice for the child

Demanding respect for the rights of the child in intercountry adoptions is not simply a moral stance or an end in itself. The practical ramifications that violations have for the child can be devastating. While intercountry adoptions that have involved illegal acts or malpractice are not bound to fail, the risks of failure, sooner or later, do increase very significantly.

The child's right to an identity implicitly includes the right to the truth about his or her own history. Article 30 of the Hague Convention requires Contracting States to preserve "information concerning the child's origin" and to permit access to this information "in so far as is permitted by the law of that State".

Whenever illegal procedures are resorted to during the process of intercountry adoption, the child's identity is likely to be jeopardized. In cases of child trafficking, for example, knowledge about the abducted children's families, their ethnic roots and their medical histories are forever lost. Often child traffickers try to cover their tracks by moving kidnapped children to other countries before arranging for their adoption abroad. Hence, one report describes a criminal ring that kidnapped Guatemalan children, obtained forged birth certificates and passports, transported the children to El Salvador and Honduras, and from there arranged for their adoption in third countries.⁽⁵⁾ These children and others like them will never know anything about their origins, not even where they were born.

It is increasingly being acknowledged that being barred from knowledge about one's past can have a negative effect. Research has shown that many adopted children need to know as much as possible about their real identity in order to build balanced personalities.⁽³⁴⁾ This greater awareness has led to more openness about the adoptive child's family background. In some countries, records have been unsealed. Indeed, small but growing numbers of adoptive parents establish and maintain communication with birthparents (including visitation rights). This new practice, known as 'open' adoption as opposed to 'exclusive' adoption, is especially viable in the case of older adoptive children.⁽⁷²⁾

The child's national identity is also at risk. Cases have been reported of the 'export' of pregnant women to countries where procedures are lax. One example, in the early 1990s, was a criminal ring that brought Romanian, Albanian, Yugoslav and other nationals to Budapest, Hungary, to give birth. Mothers relinquished their newborn children to waiting foreign par-

ents, mainly from the United States, while the enterprising intermediaries pocketed most of the fees paid. When the Government dismantled this particular operation, difficulties arose over the national identities of the children involved, who were born in Hungary but of foreign mothers.⁽⁸⁵⁾

Children brought into a country illegally — as was the case, mentioned earlier, of some Romanian children in Ireland — will often find themselves in a 'limbo'. If they have lost their original nationality as a result of the adoption procedure in their birth country — one not recognized in the receiving country because of irregularities — they will be faced with the precariousness of statelessness.

National identities may also be unclear in case of adoption disruption, which is more likely when safeguards such as counseling for the prospective adoptive parents, homestudies and careful matching of children with families, are not respected. A study of 57 unsuccessful intercountry adoptions in Switzerland found that in more than half of the cases the child had never acquired Swiss citizenship, which is granted only after a two-year probationary period in cases of intercountry adoption. For one former 'street child', adopted in Colombia by a Swiss family when he was 10 but then, given unresolvable conflicts, placed in an institution, this meant that even after 13 years of residence in Switzerland, he could not be covered by accident insurance or considered for apprenticeships and would likely remain a 'foreigner' in what he had come to consider his homeland. His application for naturalization was refused on the grounds that he had contracted debts and come into conflict with the law.⁽⁴³⁾

The fate of children who are disabled or seriously ill (especially those affected by HIV/AIDS and other incurable diseases) has often been tragic. In some cases, they were presented as healthy children to their prospective adoptive parents; in others, the adopters were aware of the special needs but, not having received counseling or gone through the matching process, had not realized the caring implications. Many such children have been rejected and either have ended up in institutions in countries far from

their own or, in some cases, have been quite simply returned to their country of origin.

Consequences of abuses for children in general

The consequences of abusive actions in adoption reach far beyond the individual child directly concerned.

First and foremost, allowing such actions to persist either by ignoring them or, even worse, attempting to justify them as being essentially 'in the child's best interests', perpetuates the idea that fundamental decisions about children's lives can be made without reference to the law, at whim, and often in connection with financial consideration to boot. It thus reflects a general attitude towards children that is in total contradiction with the very essence of the Convention on the Rights of the Child.

Second, the existence of significant numbers of abusive intercountry adoptions potentially affects all children who have been, or are at risk of being, abandoned in the country in question. In a context of irregular adoptions, institutions are likely to thrive whose main, or even sole, function is to expedite foreign adoptions, and whose funding is directly proportionate to the number of children 'processed'. These so-called orphanages have few incentives to look for domestic solutions for children when so much can be gained by sending them abroad. They may make only halfhearted efforts to find the child's natural family, or neglect to ascertain whether or not the child had been placed in care temporarily because of an emergency situation.

Additionally, when adoption scandals erupt, it is not unusual for countries of origin to prohibit intercountry adoption entirely, a measure that may adversely affect children properly identified as requiring this form of care. This is especially significant in countries where there is a stigma attached to adoption. Advocacy efforts aimed at creating a more positive environment for domestic adoptions in these countries are likely to suffer a setback when irregularities are uncovered, which will result in more children being kept in institutionalized care. ●

HIGH-RISK SITUATIONS

Abuses in intercountry adoption are, not surprisingly, more likely in countries where there are no effective legislation and administrative structures and/or no coherent and workable child and family welfare policy. Abuses are especially prevalent in 'private'

adoptions and during periods of armed conflict, natural disasters, socio-political upheaval and economic crisis. Intercountry foster placement and respite care, a new and largely unregulated phenomenon, also presents serious risks.

Legislation

A sound legislative base is fundamental — though of course not sufficient — for preventing abuses of intercountry adoption. Children in countries where legislative provisions are non-existent, inadequate or plagued with gaps and loopholes are clearly at special risk. The absence of relevant legislation in many former Communist countries thus created a climate favourable to child trafficking and other abuses: in the early 1990s, Albania, Bulgaria, Latvia and Poland, among others, had no legal provisions specifically regulating intercountry adoption.⁹⁴

But it is not only the strictly-defined field of adoption itself — both domestic and intercountry — that needs to be regulated by law. Children who do not legally exist are especially vulnerable to child trafficking and illegal adoption, yet according to UNICEF, every year as many as 40 million infants, about one third of all births, are not registered.⁹⁵ In many countries, there are no laws making birth registration compulsory. In extreme cases, such as Bangladesh, no more than 3 per cent of births are registered. It is claimed that in Venezuela the number of non-registered children stands at 400,000.⁹⁶

Legislation is also vital for establishing criteria on what constitutes abandonment on the part of a parent, setting a period during which the parent(s) may reconsider their decision, and stipulating the procedure to be followed. Responsibilities and decision-making rights of the person or institution acting *in loco parentis* for an abandoned child also need to be clarified in law.

Legislation is often lacking in a wide range of other fields with a more or less direct effect on adoption, including poverty alleviation programmes, child care arrangements for parents/mothers, and regulation of hospitals, clinics, homes for single mothers, maternity homes and children's homes.

Courts and administrative structures

The absence or insufficiency of courts and administrative services in a position to ensure the proper implementation of enacted legislation significantly increases risk. In some countries, judicial systems are so overloaded that the court decision on an intercountry adoption is reduced to a rubber-stamping exercise rather than a careful examination of the situation and documentation. There may be no judges with special competence in this sphere. Equally, social service departments may be unable to carry out the tasks necessary to help children remain with their families wherever possible, to identify local alterna-

tives where needed, or to make appropriate preparations, including counselling and reports, when an adoption procedure is envisaged.

Child and family welfare policy

In countries where there is no official policy that actively promotes maintaining the child in his or her birth family, including support to the family where necessary, the consequent recourse to abandonment and the 'acceptability' of available forms of substitute care constitute clear dangers in terms of abuses of intercountry adoption.

Flagrantly inadequate efforts to trace families of lost or abandoned children and failure to consider local adoption opportunities are also symptomatic of a corrupt adoption system. In Guatemala, a sharp decrease in the number of children sent to state homes was attributed to the "subjective criteria" used in child placement: "In general, judges send those children who do not have families, are under the age of two years and are in good health to the private homes — in other words, those children suitable for international adoption." Guatemalan couples are automatically turned down when they apply to these homes, given their obvious inability to compete with foreign 'clients'.⁹⁷ Judges also tend to be too hasty in declaring a child abandoned, not giving enough consideration to the difficulties an impoverished mother may be experiencing in travelling to and from the children's home.

Private adoptions

Although adoptions carried out through accredited or official agencies cannot be guaranteed as being totally abuse-free, it seems clear that by far the worst and most frequent problems arise in the context of **private** adoptions. The Committee on the Rights of the Child, the body responsible for monitoring compliance with the CRC, has frequently made this distinction. Reviewing the initial report of Paraguay, for instance, it urged that, considering the many abuses that had occurred, including the sale of children, authority for international adoption "must be centralized and not left in the hands of profit-seeking lawyers".⁹⁸ A Russian newspaper discussing the various possibilities that exist for corruption concludes that it is hard to know the facts since much of what goes on is a "private affair".⁹⁹

When prospective adoptive parents decide to act directly — or more usually through intermediaries such as law firms — the possibilities for enforcing safeguards are dramatically reduced. They also run serious risks themselves. A 1993 article in a U.S. newspaper warned

prospective adoptive parents against 'con artists' who demand 'up-front' fees of more than \$500, claim to know 'shortcuts', suggest travel before a child has been assigned, or exert pressures to 'reserve' a child by means of a consistent 'down payment'.¹⁰⁰ Prepayment for nonexistent or ineligible children is a common adoption fraud.

In many cases, it appears, 'private' adoptions are initiated precisely because of the strict procedures that are applied to intercountry adoptions. They can be arranged for persons whom adoption agencies have deemed unsuitable as prospective adoptive parents, for whatever reason, or who refuse to wait months or years for a child to be allocated to them through official channels. This has led some groups to claim that it is excessive bureaucracy and regulation that foster the 'underground trade', and that therefore the procedures and safeguards should be relaxed. It is important that the prospective adoptive parents be helped to understand that the procedures are designed to protect the interests and rights of the children, not as arbitrary obstacles to adoption. They should also never forget that "adop-

Private adoptions versus agency adoptions

A distinction is generally made between 'private' adoptions (also known as 'independent', 'direct', 'non-agency' or 'parent-initiated' adoptions) and 'agency' adoptions. The meaning of these two terms varies significantly from country to country, depending on what the concept of 'agency' is in a given context.

An agency can be:

- the Government or a subsidiary of the Government
- a private agency licensed by or under authority of the Government
- a private agency or other intermediary not licensed by the Government.

Therefore, in some countries, a 'private adoption' would be one **not** arranged through the Government. In others, it would be one **not** arranged through the Government or an agency licensed by the Government. In others still, it would be an adoption **not** arranged through the Government or any kind of agency (whether licensed or not).¹⁰¹

Since two Governments are involved, a number of hybrids are possible. One example could be adoptions that are handled by a State-licensed agency in the receiving country but that involve non-licensed intermediaries in the country of origin.

tion is not about seeking a child for a childless family, but rather about seeking parents for an orphaned or abandoned child".²⁵

Emergency, conflict and post-conflict situations

All the above risk factors are compounded significantly in emergency situations or those that are perceived as such. Here, the heightened vulnerability of the children and their families, coupled with a sometimes sensationalist stance by the media and the surge of outsiders seeking to help in their own ways, constitutes a breeding ground for abuse and malpractice in intercountry adoption.

The situation of children in conflict and post-conflict situations, in particular, is so complex that intercountry adoption is highly inadvisable. To begin with, recognized authorities may not be in control of all the national territory and will invariably lack the means to ensure basic services. Thus, existing judicial and administrative structures are likely to have broken down or to be severely restricted. Everything from birth registration to court decisions may be virtually impossible to ensure.

Temporary measures are needed until all efforts have been made to trace families and it is formally established that the child is adoptable.²⁶ Family members may have distanced themselves from their child to minimize the child's risks. Refugee parents, in particular, may have abandoned their child after a period of extreme deprivation, which has left them uncertain about their future ability to guarantee the child's survival. Separation may also have been involuntary. One example of the kind of children's rights violations that can occur in such situations was 'Operation Babylift' out of Viet Nam between 1963 and 1976, which involved about 3,000 children, many of whom mistakenly considered as 'orphans'.

Responding to the emergency situation in Rwanda in 1994, the International Committee of the Red Cross issued an unequivocal statement:

Children in an emergency context are not available for adoption. Since most unaccompanied children are not orphans, what they need is suitable interim care with a view to possible reunification with their families, not adoption . . . Adoption should not be considered unless a reasonable time (normally at least two years) has passed during which all feasible steps to trace parents or other surviving family members have been taken.²⁷

Once it has been determined that a child is

'adoptable', consideration must be given to the possibility of placing the child with his or her extended family and, in the case of refugee children, within the refugee community or with families in the country from which the child has fled. Intercountry adoption should only be contemplated after repatriation and other placement options have been excluded. Refugee children and other internationally displaced children are also the subject of a 1994 Hague Conference Recommendation, which urges particular care to ensure that:

- all reasonable measures have been taken in order to trace and reunite the child with his or her parents or family members where the child is separated from them; and
- the repatriation of the child to his or her country, for purposes of such reunion, would not be feasible or desirable, because of the fact that the child cannot receive appropriate care, or benefit from satisfactory protection, in that country.²⁸

Socio-political upheaval and abrupt economic change

Events during the 1990s in Central and Eastern Europe demonstrated as never before the risks of abuses in intercountry adoption that can be created by drastic changes in the socio-political climate and the sudden descent of a significant proportion of the population into material poverty. While some factors might be considered rather specific to the context of events in this region — such as the sudden demise of the State as provider, widespread prior reliance on institutional care, and the inexperience of the new authorities in confronting certain international issues such as intercountry adoption — there can be no doubt that many elements constitute risks of a far more general nature. These range from ensuring the rule of law to dealing with massive influxes of foreign organizations, as well as the special vulnerability of families experiencing severe financial hardship for the first time.

An upturn in the economy may also spark gross abuses. This was apparently the case of Viet Nam in 1993, where economic recovery had created a disequilibrium in 'supply' and 'demand', with far more 'clients' for children in adoption than there were children available. To meet requests and thereby ensure the continuity of a business built up over the years, local intermediaries began pressuring mothers to abandon their children.²⁹

Intercountry foster placement and respite care

Intercountry foster placement has grown over the past few years, currently involving some tens of thousands of children a year (in Italy alone, some 60,000 children were received during the summer of 1997).³⁰ These may be children living in institutions, children with relatively severe medical problems or child victims of armed conflicts and other disasters. Children from Central and Eastern Europe — from orphanages, victims of the Chernobyl disaster, and children threatened by war in ex-Yugoslavia — have been particularly prevalent.

Placing a child with a family living in another country is generally a temporary measure for a set period. It has the advantage of offering the child a period away from the problem environment of his or her everyday life, enabling the child to regain physical and psychological strength or to receive needed medical care. It has the drawback of returning the child to that very same problem environment after he or she has experienced several weeks or months of a very different, ostensibly more favourable, way of living. This can create unease in the child and may prove more harmful than the benefits of the stay abroad. The child may, for example, return with a low esteem for his or her parents, their traditional way of thinking and doing things, and their inability to provide the kind of lifestyle the child has known abroad.

A major risk is represented by the fact that, at present, in most receiving countries international fostering is organized by volunteer groups. It does not benefit from the same safeguards as national fostering does, nor does it receive the kind of attention it merits from local authorities. Foster families receiving children from abroad are, in general, not scrupulously screened or given any prior training in fostering, or any supervision during fostering. Often families merely 'sign up' and a child is assigned to them on the basis of their ranking on a list. A further risk, particularly relevant to this *Digest*, is that intercountry foster placement is sometimes used to circumvent part of the normal legal procedures for intercountry adoption: the child does not go back to his or her home country once the scheduled stay is over, and the host family embarks on adoption proceedings in their country of residence. In such a situation, the child can continue to live with parents who may even be found, eventually, to be 'unsuitable'.³¹

The new Hague Convention of 19 October 1996 on the Protection of Children contains

special safeguards and procedures for intercountry foster care to take place in appropriate circumstances and under appropriate conditions. Of particular relevance is Article 33 which provides for consultation concerning a decision by authorities in one State to place a child in care

in another State. Other articles set out procedures for the provision of assistance in locating missing children (Art. 31) and for the relocation of seriously ill or at-risk children from one State to another (Art. 36).⁽⁷³⁾

provision of adequate social safety nets (unemployment benefits, maternity leave, free medical care for families in difficulty, family allowances, etc.).

PROMOTING A FAMILY-FOCUSED APPROACH

The 'abandoned' birthmother

Many birthmothers of children adopted abroad are only children themselves. Often extremely poor and marginalized within their own societies, these child-mothers may have little choice but to abandon their offspring.

A 1993 study⁽³⁴⁾ of adoptions from major Latin American cities found that typical birthmothers:

- were aged between 14 and 18;
- had only one or two years of primary schooling and were functionally illiterate;
- lived below the poverty line;
- were unemployed or active in the informal sector as street vendors, beggars or prostitutes;
- came from broken homes;
- had histories of neglect, abuse and abandonment;
- lived in 'macho' societies;
- had had no access to sexual education;
- were totally unprepared for the responsibilities of motherhood.

Their situation was diametrically opposed to that of the older, more educated, wealthier and often professionally employed prospective adoptive mothers.

Devising policies to support and protect the birthmother is a priority in a context of high abandonment rates. Guidelines drawn up by international NGOs⁽³²⁾ emphasize that birthparents should be offered psycho-social services by professionally qualified workers before and after the birth of the child. As a first priority, birthparents should be directed to services and other resources, such as child welfare centres and centres for the support of unwed mothers, that could enable them to bring up their own child. They should also be protected from being coerced into planning for their child's future before the child is born and be given sufficient time to reconsider their decision before it becomes irrevocable. In addition, after relinquishing the child, birthparents should have access to counselling and support services.

Efforts to address the root causes of abandonment are also needed and should be closely linked to the commitment nearly all countries in the world have made (by ratifying the CRC) to combat discrimination, including on the basis of sex and status at birth. In countries where gender discrimination is severe or the societal attitude towards children born out of wedlock extremely hostile, greater understanding of and respect for children's rights must be fostered, by schools, the media, NGOs and church groups, among others. Measures are also required to provide girls with relevant and accessible education, make sex education available to adolescents, encourage family planning and promote good parenting, including an emphasis on the importance of responsible paternity.

Since a source of 'unwanted' babies is violence against women, legal and administrative measures are needed to combat abuses, protect victims and punish the perpetrators. Governments should also make greater efforts to tackle poverty, a major cause of abandonment, through the creation of job opportunities, increases in the minimum wage, and the

Institutionalization and intercountry adoption

To some degree, and in response to a variety of situations, institutional or residential placements of some kind are used as a 'child welfare' measure throughout the world. The use of institutional care was especially prevalent in the former Communist States of Central and Eastern Europe, where domestic adoption was often not an option, mainly because of professional inertia and fear of adopting children whose origins were unknown. Disabled children had almost no hope of leaving institutions because of the stigma attached to disabilities, the high cost of their care and the lack of structures to care for these children within the community.⁽³⁰⁾

Although certain kinds of institutional placement may constitute a worthwhile solution in some situations, the potentially negative long-term effects of institutionalization, greatly exacerbated in situations where children receive inadequate stimulation in their first years, are increasingly being recognized. A recent Canadian study,⁽³⁾ for instance, compared orphanage children, whose median age at adoption was 18.5 months and who had essentially spent all of their lives in institutions, to control groups. The study found that children who had been in orphanages for eight months or longer were delayed in all areas of development (social, motor and language). Their problems were not country-specific, but "spring from early institutional

The devalued status of girls and women

In many countries of origin, the girl child suffers from severe discrimination. At times gender discrimination is so destructive that it has altered the natural ratio of men to women in the total population. This is the case in South and West Asia, China and North Africa, where an estimated 60 million women are actually 'missing' from the population because of selective foetal abortion, infanticide, discriminatory feeding practices or neglect.⁽⁹¹⁾

The predominance of female adoptees from certain countries is another expression of the 'expendability' of the girl child. Official data from the Dutch Government,⁽⁸⁶⁾ for example, show that, in 1996, 28 out of 36 intercountry adoptions from India involved girls; in 1997, the figure was 40 out of a total of 58, or nearly 70%. The share from China, where a policy of one child per family is in force, was 90% in 1996, and 93% in 1997 (94 girls out of 105 children). While these numbers are small, the scale of the problem can be recognized by considering that in the two-year 1996-1997 period, over 700 Indian children and nearly 7,000 Chinese children, again overwhelmingly girls, were adopted by U.S. parents alone.⁽⁹⁸⁾

rearing, wherever the orphanage". Because of the difficulties adoptive parents encounter, the study concludes, adoptions of orphanage children should be recognized as "special-needs adoptions", requiring "extra commitments of parents' time, energy, acquisition of expertise, and willingness to work with helping agencies".

Despite the growing body of knowledge about the risks of institutionalization, many children, for a variety of reasons, remain in institutions for years. Most, to begin with, are not orphans. Frequently their parents have not given their consent to initiating adoption procedures and they are not considered legally abandoned. In some instances, there is a fear of promoting the rights of abandoned children over the rights of abandoning parents. Blood ties may also be considered paramount for the protection of children, even when a particular birth family shows a clear and persistent lack of interest in their child. Often there are gaps in the legislation covering this type of situation. Furthermore, many countries lack adequate structures, financial means, personnel, or even trained professionals to deal with family homestudies and undertake the necessary psychological studies to determine the best social and legal measures for the protection of these children. It must also be said that in certain countries, political will is lacking to remove children from institutions and provide them with a family. This may be because institutions are considered a suitable form of child care in the country concerned or personnel working in these institutions see deinstitutionalization as a job threat.

Many institutionalized children are of an age that could make their adjustment to full-fledged member of a new family extremely difficult, even if couples were willing to adopt

them: relatively few couples, however, are prepared to adopt children once they reach five or six years of age. Many of these children also suffer from severe behavioural difficulties, or from mental and physical disabilities or infectious diseases such as HIV-AIDS, meaning that few families would be both willing and sufficiently skilled to provide the special care they require.

This explains, in part at least, why numbers of children in institutions can remain so high despite the high demand for children to adopt, and equally why prospective adoptive parents turn to children still living with their families even when thousands or tens of thousands of children remain in institutions in a given country. Increasingly, initiatives are being taken to promote or ensure the prevention of recourse to institutional placements wherever possible and to set up deinstitutionalization programmes for children already in this form of care. ⁽⁶⁸⁾

Family reintegration

The reintegration of the child in his or her birth family is in principle the best possible alternative for institutionalized children. Specialized services must initiate attempts to secure this as soon as a child is taken into institutional care. The reintegration process should entail:

- locating members of the child's birth family, including the extended family and particularly the grandparents, if necessary by means of a police inquiry;
- analysing the specific problems of the family and the child;
- providing financial, social or psychological support to the family, where necessary including family therapy (for instance,

psychotherapy, drug or alcohol rehabilitation);

- identifying those families where reintegration is possible;
- providing, if necessary, for a transitory period of placement in a foster family or an institution, in order to give time to the family to solve its problems; and encouraging and facilitating contact between the family and the child during that period.

In any case, the child must be prepared for the change and allowed to participate, to the extent possible, in devising the reintegration plan established in consultation with the family. Support for the family and child after reintegration should also be provided.

Domestic adoption

If it is established beyond reasonable doubt that the birth family cannot guarantee the psycho-social development and the physical and emotional integrity of the child, competent child welfare bodies should look for a substitute family within the country. Domestic adoption must be given priority because child protection measures should be such as to minimize cultural, social and psychological trauma to the child. Campaigns to promote domestic adoption are needed to raise awareness of the real needs and rights of the children concerned. The same safeguards that apply to intercountry adoption are also applicable to domestic adoptions; this includes studies to establish the adoptability of the child and the suitability of the prospective adoptive parents, matching carried out by competent authorities or authorized bodies, counselling of all parties concerned and the maintenance of information on the child's family and medical history. ●

WHEN THE ANSWER IS INTERCOUNTRY ADOPTION

Current international standards foresee intercountry adoption as a solution for selected children whose appropriate care cannot be ensured in their country of origin. It must be approached uniquely as a welfare measure for the child concerned, and must always be carried out in strict conformity with the child's interests and rights.

A synopsis of good practice

A child's eligibility for intercountry adoption should be decided upon by the competent authorities of the State where the child habitually resides (the 'country of origin'). The procedure should be carried out by the authorities themselves or 'accredited' nonprofit professional

bodies, not by other intermediaries. Strict regulations and procedures to protect those children's rights and interests are vital; prospective adoptive parents, in particular, must be helped to understand this and be warned against trying to adopt without due regard for them. Thus, the onus for ensuring the appropriate use of inter-

(continued on page 14)

CHILDREN AND ADOPTION: WHICH RIGHTS AND WHOSE?

by Chantal Saclier, *International Social Service*

Having lived for several years in developing countries, where I was able to observe the conditions in which children live and are looked after in institutions, and having worked for some time on matters relating to intercountry adoption while living in receiving countries, I can appreciate the complexity of the issues involved. At present, speaking of children's rights when talking about intercountry adoption forces us to confront a highly uncomfortable situation. In the name of the child, everyone raises his or her banner and simplifies the issues to the extreme, whereas, in this field, the rights of the children concerned are not always so clear-cut and obvious. The passions the topic unleashes, in both countries of origin and receiving countries, distort information, confuse people's thinking and make action difficult and risky. Often there is a tendency to consider only one aspect of the problem, filtered through the prism of the side of the planet on which one lives. Everyone defends his or her personal convictions or interests, forgetting that at stake are the lives of human beings, and young and particularly vulnerable ones at that.

One might start by making two statements in terms of the interests of the children concerned. Adoption can offer a permanent and appropriate family to children who have been definitively deprived of their family environment or cannot, in their own best interests, be allowed to remain in it. Adoption is, then, an opportunity that should be offered to such children when it appears to be the right solution for them. Often, however, these two irrefutable statements are reinterpreted and transformed into the following highly questionable conclusion, one that can be used to cover up a host of practices that are contrary to the child's best interests: "Since there are many children suffering in institutions in developing countries and many families keen to adopt in more privileged countries, international adoption should be encouraged and promoted".

We are indeed facing a paradoxical situation.

On the one hand, many thousands of children at present live in institutions in conditions that give great cause for concern. For a portion of these, adoption (domestic and intercountry) is an option that ought to be implemented because they are in need of a permanent family environment. However, for many reasons, some of which have been stated earlier in this *Digest*, they are kept in institutions.

On the other hand, thousands of couples or individuals from 'receiving countries' regard intercountry adoption as the only solution left at the end of a long, painful road that has typically included unsuccessful fertility treatment, applications for domestic adoption turned down or placement on long waiting lists.

We can therefore understand how easy it is to reach the conclusion mentioned above. But reality contradicts it.

In fact, a growing number of children who have been adopted were not in need of a substitute family: children sought directly in their birth family, who may or may not have passed through an institution; children who could have continued growing up in that family had it been given modest support or had the demand from adoptive parents and the money they were prepared to pay not exerted pressure on mothers and encouraged abuses or a variety of criminal acts; even children who would not have been conceived were it not for the lure of money to be gained through intercountry adoption.

Certainly, the great numbers of children placed in institutions and kept there for years is one of today's most poignant tragedies. But international adoption can also turn into a tragedy for the children involved and their families.

In the last two decades, intercountry adoption has progressively changed. From its initial purpose of providing a family environment for children, it has now become more demand-driven. Increasingly in industrialized countries, intercountry adoption is viewed as a way for childless couples to satisfy their

urge for a child. Growing numbers of intercountry adoptions, in fact, involve countries where children can be found who correspond to criteria set by prospective adoptive parents: very young children whose physical appearance is as similar as possible to their own, and who have no physical or mental disabilities or serious illnesses. This trend has contributed to the development in the West of a tendentious philosophy of a 'right to a child', which often goes so far as to violate the rights of the child. To meet the demand for children, abuses and trafficking flourish: psychological pressure on vulnerable mothers; negotiations with birth families; adoptions organized before birth; false maternity or paternity certificates; abduction of children; children conceived for adoption; political and economic pressure on governments ...

Indeed, a booming trade has grown in the purchase and sale of children in connection with intercountry adoptions. It originates with the continuous pressure exerted by couples in economically advanced countries and the fact that they frequently can be induced to pay very large sums of money to satisfy their desire to have a child. All too often in these cases, adoption, whether intercountry or domestic, becomes an act of selfishness, an expression of an inability to accept being thwarted, a way of resolving a frustration by putting the burden on others who are less economically privileged. This trade also depends on the venality of officials, professionals and intermediaries who see adoption as a way of getting rich quick, either through corruption or by overcharging for services rendered. And it is fuelled by the lure of profit in populations destabilized by poverty or the breakdown of their societies.

The child whose rights are being stepped on has become an object, a tradable commodity. In such cases, who can still dare call adoption an act of love? An act of generosity in the midst of the drama of poverty or loneliness? That is what it can and should be, but it is, alas, ever less so.

What are children's rights in intercountry adoption?

If children are to be set at the centre of all measures aimed at protecting them and respecting their rights, then three lines of action seem to me to need priority for children at risk or in a situation of neglect or abandonment:

1. Neglect and abandonment of children are mainly the consequences of poverty and destitution. Large families, lack of education, absence of birth control, the breakdown of the nuclear family, a weakening of the role of the extended family, intrafamilial violence, alcoholism and drug addiction, health problems, and so on, are all direct consequences of poverty and destitution. From a human rights perspective, it is impossible to be satisfied with considering adoption as the answer for neglected or abandoned children. It is imperative that action be taken so that children are not abandoned but can remain with their families.

Implementing children's rights means fighting for national and global policies that bring about social justice, that is, that improve the economic and educational level of impoverished populations.

2. Worldwide, and particularly in low-income countries, placement in institutions often constitutes the automatic response to children in need of care and protection. In most

cases, institutional placement has very adverse effects on the child's development. It does not foster the psychological, emotional, social, intellectual or even physical development of the child. In many countries, moreover, because institutions are underfunded and poorly managed and their staff lack training and adequate supervision, they fail to meet even children's most basic needs. Some people in these countries are fiercely opposed to intercountry adoption on the grounds that children have a right to be brought up in their own communities, but, at the same time, they are willing to accept that children languish in institutions where their other fundamental rights are ignored or violated. In a world where population movements are unceasing, is it not more respectful to offer a child a family that will help him or her to develop, in whatever country, rather than condemn that child to an orphanage 'culture'?

Implementing children's rights means fighting to raise awareness, to promote policies and to promulgate legislation that favours family-based alternatives for children; limiting the role of the institution to temporary care aimed at facilitating the reintegration of the child into his or her family as a priority, and otherwise his or her permanent placement in a substitute family; promoting and improving in-community and in-country adoption; monitoring and improving intercountry adoption procedures.

3. Adoption, and particularly, though not only, intercountry adoption, can involve practices that generate high risks for children and their birth families (especially their mothers), abuses, trafficking and criminal acts such as sale and purchase, or abduction. Too often adoption is a means for couples and individuals (nationals and foreigners) to satisfy their desire for a child, but without giving paramount attention to the child's best interests. Adoption must, and must only, be a measure for the protection of the child. It is not a matter for individuals only. It is a social and legal measure for the protection of children and has to be under the responsibility of the State or States involved.

Implementing children's rights means fighting against the growing philosophy biased towards the 'right to a child'; opting for adoption only when it is in the best interests of the child; improving ethical criteria; being exacting when accrediting and monitoring intermediaries; implementing procedures that ensure that the prospective adoptive family matches the child's needs and characteristics; improving laws and practices; training staff and judges involved in the procedures; taking very drastic measures to fight against profit-making in adoption-related matters, and against the abduction of, sale of or trafficking in children.



The International Social Service is an international NGO dedicated to helping individuals and families with personal or social problems resulting from voluntary or forced migration, including intercountry adoption. Its national branches, affiliated offices and correspondents in over 100 countries facilitate communication between social services to resolve these problems.

Chantal Saclier is Program Manager at ISS's Geneva headquarters, responsible for planning and coordinating the activities of the ISS International Resource Centre on the Protection of Children in Adoption. The purpose of the ISS/IRC is to promote and improve the implementation of the rights of children who are in situations of neglect or at risk of abandonment as well as of children considered for or already in substitute family care, particularly adoption. (See page 21 for further details.)

country adoption lies on both countries of origin and receiving countries, and their cooperation throughout the many stages of the adoption procedure is essential.

To facilitate this cooperation, the Hague Convention on Inter-country Adoption provides that each Contracting State should establish a national **Central Authority**, with overall responsibility for protecting children potentially or actually involved in an intercountry adoption. The Central Authority may act through another public authority or an accredited body. In the case of accredited bodies, the State has an obligation to supervise their composition, operation and the financial conditions they apply.

Adoptability of the child

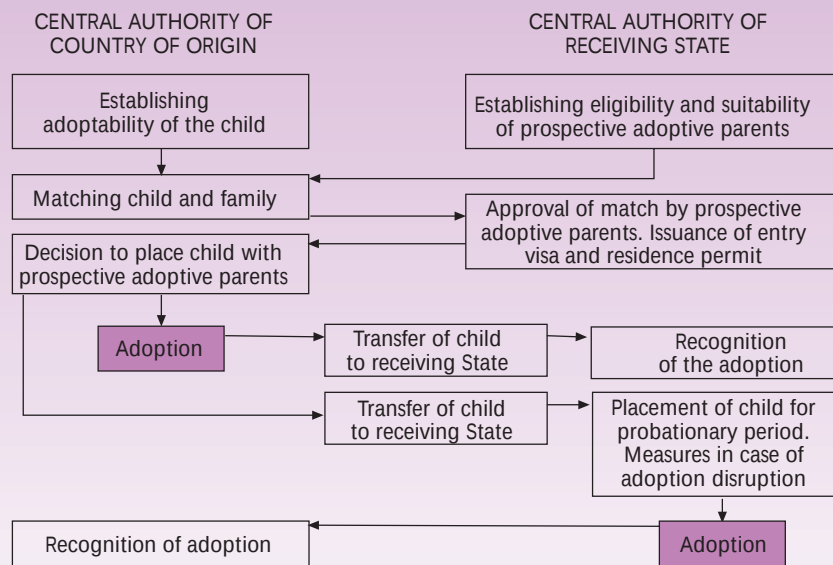
The Central Authority of the country of origin must ensure that competent authorities establish the child's 'adoptability' — that is, legal eligibility and psychological, medical and social suitability for adoption — and that a report is completed *before* the prospective adoptive parents have contact with the child's birthparents or other legal representatives and *before* consideration is given to matching the child with any given prospective adoptive family. The report should certify that:

- birthparents have been clearly informed of the consequences of adoption (and, in particular, that in cases of intercountry adoption, the child will leave the country and that all links with the birth family will be definitively severed) and have been helped with necessary counselling;
- the birthparents, and particularly the birth-mother, have given their consent to adoption only after the birth of the child (a 'blanket' consent not naming specific adoptive parents limits the risks of trafficking);
- the consent of persons, institutions and authorities responsible for the child has been freely given before adoption and has not been induced by payment or compensation of any kind;
- the child, according to age and degree of maturity, has received counselling and is informed of the consequences of adoption, and his or her opinions and wishes have been taken into consideration.

Eligibility and suitability of the prospective adoptive parents

The Central Authority of the receiving country must similarly ensure, through a homestudy, that the prospective adoptive parents are recognized as qualified and eligible to adopt. Again, suitability is not just a legal or economic concept, but also has psychological, social and medical dimensions. Since the goal of adoption

ROLE OF CENTRAL AUTHORITIES UNDER THE HAGUE CONVENTION ON INTERCOUNTRY ADOPTION



Sources: Based on Bucher, 1996.

is to give an orphaned, abandoned or otherwise traumatized child the family best placed to respond to his or her needs, it is essential to determine that the prospective adoptive family is qualified and capable of ensuring, in a permanent and satisfying way, care and respect for a child with such a past. Often the prospective adoptive parents also come to adoption after a traumatizing past (infertility, unsuccessful medically assisted procreation, the death of a child) and may not have fully come to terms with their grief: they must be capable of not shifting this burden to an eventual adopted child.

Several receiving countries have made it mandatory for prospective adoptive parents to complete a specific training course *before* a homestudy can be carried out. Preparation is aimed at helping prospective adoptive parents to understand the differences and similarities between being birthparents and adoptive parents, to face squarely their own motivations for wishing to adopt a child and to explore their expectations (both realistic and unrealistic) about an eventual adopted child. They also learn about the child's possible experiences in his or her country of origin and their impact on the child's future development and adjustment; what adoption means to the child, including a discussion of separation and grieving; what the warning signals of unsuccessful bonding are; what discrimination foreign adoptees are likely to face and ways to deal with it — in other words, they are given information about the stages, rewards and possible stumbling blocks in the adoptive relationship and how to deal with them. This information helps them assess their own ability to assume responsibility for an adoptive child.⁸⁷

Achieving good matching

'Matching' must be the quest for an appropriate adoptive family for a given child, taking account of this child's history, characteristics and needs. Matching should take place after the adoptability of the child and the eligibility and suitability of the prospective adoptive family have been established. It should be decided on the basis of detailed reports on both the child and the prospective adoptive parents, periodically updated if the process is protracted. Matching is the primary responsibility of the country of origin, taking full account of a homestudy prepared and transmitted by the receiving State. Both the country of origin and the receiving country can ensure at this time, however, that their public policies are respected regarding the personal circumstances of the adoptive parent(s) (for instance, by permitting a child to be placed with heterosexual married couples only, or by widening the categories of potential adopters to include, for example, single persons, or unmarried hetero- or homosexual couples). As good matching is the key to a successful adoption, the decision should be made only by child welfare professionals who have received specific training on adoption matters. It should involve, as far as possible, a professional who knows the child, a professional who knows the selected family and representatives of the competent bodies involved in the adoption procedures in both countries.

The proposed matching should be presented to the selected prospective adoptive family for approval.

Preparing the child and the birth family for the adoption

It is desirable for contact to be established after the matching is made and a short period of time

allotted before the adoption is finalized to enable the child and the prospective adoptive family to get to know each other.

As far as possible, according to age and maturity, children should be associated with defining the life plan proposed for them, in particular adoption. Once adoption is contemplated, the child, even when very young, must be prepared for the upcoming changes: leaving known surroundings and familiar faces; travelling; changing eating habits; meeting physically different people who do not speak his or her language or who act differently from previously known adults. Where the birth family is known, care should be taken to furnish it with psychosocial support to enable it to accept the separation from the child positively. The family should also be prepared for the possibility — increasingly common — that the child will seek out his or her origins on reaching adolescence or adulthood.

Adoption

One of the greatest advantages of the Hague Convention is that it provides for the automatic recognition by all Contracting States of adoptions made under the Convention, whether in the receiving country or country of origin. This is an important guarantee for the child as it secures his or her adoptive status.

When adoption proceedings are held in a country of origin that is not a Contracting State, instead, depending on the national law in force, a child may be legally adopted without there having been an official exchange of reports concerning the adoptability of the child and the eligibility and suitability of the prospective adoptive parent(s). This situation is causing serious problems in some receiving countries. In Spain, for example, which is a party to the Hague Convention, legislation has been in force since 1996 requiring that a home-study be performed by accredited authorities in Spain before an adoption can be officially recognized. When individuals ignore this or other requirements, delays in registering the adoption occur. There is also a risk that the 'adoptive' parents could eventually be deemed 'unsuitable'. Delays are also common when Spanish couples obtain guardianship orders for children from countries such as India and Chile — neither of which is yet a party to the Hague Convention — and then have to proceed with adoption once they have returned to Spain with the child. In both cases, months can go by before the adoption is recognized — an administrative limbo that, apart from its implications for such matters as inheritance rights, work entitlements and taxes, interferes with the serenity of the newly formed family. The

Government of Spain is now taking steps to address these problems, which will, of course, become less frequent as more countries ratify the Hague Convention.⁷⁶

Improving criteria for accreditation and authorization

The agencies involved in the adoption process, whether national or international, have a key role in making adoption a measure of protection for the child. Their accreditation in their country of residence and their authorization by the other countries where they operate should therefore be accorded on the basis of exacting criteria, and subject to periodic renewal after checks.

Ethical criteria should be taken into account, and accreditation should be given only if the ethics and practice of the agency comply with international norms. Here too, it is important to consider not just the agency concerned but also its partners or representatives in the other countries with which it works.

Financial aspects of the agency itself and its partners or representatives in other countries should be carefully examined before awarding or renewing accreditation. Each country must set criteria to define what costs and fees are to be regarded as 'reasonable'. Central Authorities

in both countries must ensure that directors, administrators and employees of bodies involved in an adoption do not receive unreasonably high remuneration in relation to services rendered, and that accredited bodies pursue nonprofit objectives only.

Other duties

Where the adoption procedure is not finalized in the country of origin (as is currently the case for the Philippines, India and Korea, for example), the Central Authority of the receiving State is responsible for the protection of the child in cases where problems arise after the child's transfer but before adoption is completed. The return of the child to his or her State of origin should only be considered as a last resort, and if the child's best interests so require.

Central Authorities in both the State of origin and receiving State should make every effort not to prolong the adoption procedure unduly. Information on the child's origins, the identity of birthparents and medical data of the child and the family of origin must be kept and made available to the child and/or his or her legal representative under certain conditions. ●

MAIN ACTORS

Experience has shown that, in this as in other fields, appropriate legislation is certainly necessary, but in no way sufficient. A wide range of protagonists at all levels have responsibilities — direct and indirect, formal and informal — in promoting and facilitating the proper functioning of intercountry adoptions in strict conformity with relevant standards and principles.¹⁰

The Hague Convention protagonists

The **Hague Conference on Private International Law** is a permanent intergovernmental organization whose mandate is "to work for the progressive unification of the rules of private international law" (Statute, Article 1). Under the Hague Convention on Intercountry Adoption, its Secretary General is required to convene regular sessions of a Special Commission to review the practical operation of the treaty. This system is akin to a kind of 'self-regulating' mechanism to monitor each

State's respect for the treaty in practice. Together with experts from other international organizations, the Permanent Bureau of the Conference also advises individual governments on bringing legislation and procedures into line with the Convention and maintains a list of contact details of all Central Authorities and accredited bodies to facilitate cooperation.

While responsibilities regarding the use of adoption only as a *bona fide* protection measure exist for a wide range of protagonists, under the Hague Convention there are five other actors with whom the ultimate responsibility unequivocally lies:

- the governments of the countries of origin;
- the central authorities;
- the judiciary;
- the governments of the receiving countries;
- the intercountry adoption agencies.

By far the heaviest obligation is that borne by the **governments of the countries of origin**. This is not only natural, given that the authorities are responsible for the welfare and protection of all children within their jurisdic-

tion, but it is also clearly reinforced by the provisions of the Hague Convention. Only these authorities can work to ensure that legislation and policy situate adoption as one component within an effective overall social welfare programme. Only they can take the necessary steps to institute a consistent and coherent policy, and to create conditions for it to be respected.

Under the Hague Convention, the **Central Authority**, as we have seen, has a key role to play. Governments are obliged to provide for its effective functioning, and thus to set aside the human and material resources that the role requires. This includes reliable and effective support at the local level, as well as adequate staff qualified in adoption questions (social welfare, legal and psychological). In this latter regard, major investments in training are often needed. There is no doubt that, to the extent that adequate resources fail to be put at the disposal of the Central Authority, to that same extent abuses of intercountry adoption are likely to occur.

In many countries, adoption is a judicial decision. The **judiciary** are obviously also essential to law enforcement. A prerequisite for them to fulfil this role is that the child's case file be fully and properly prepared and that the recommendation on matching be well documented. Many judges are, however, apparently not fully informed about the requirements of adoption law. For several possible reasons, they do not always interpret national and international law in the spirit in which it was devised. Decisions may seem inconsistent. While fully respecting the independence of the judiciary, the authorities must be prepared to question lower-court decisions in the highest courts of the land if those decisions are deemed to be in contradiction with the spirit or letter of the law.

Governments of receiving countries have the clear responsibility to ensure that their own services — consular in the country of origin, central authority on the domestic level — work optimally and that the relationship of mutual confidence that is basic to the kind of cooperation envisaged under the Hague Convention can exist. They must have high and strictly applied standards for the accreditation of agencies and for the homestudy of prospective adoptive parents. In addition, they should make every effort to prevent abuses by disseminating appropriate information to their own citizens. They must also be prepared to take a firm stand when agreed procedures have not been respected or when there is a clear risk of adoption abuse. Where consular services recognize that the trafficking of children is a serious problem in their

duty station, for example, they could require that birthmothers and children undergo DNA testing to confirm the parental relationship. This measure has recently been taken by some Governments to restore public confidence in the adoption process in specific countries of origin.

Intercountry adoption agencies, defined broadly, are the final group of actors under the Hague Convention. In practice, these agencies vary enormously in size, structure, experience, qualification and motivation — so much so that, in certain countries, the criteria for their accreditation might well be perceived as anything but clear. It is known that agencies in some countries have exerted considerable pressure to secure their accreditation, or have had pressure exerted on their behalf, and that some undeniably do not conform to accepted standards in practice. Intercountry adoption agencies have obligations to live up to, and are bound to work within the framework of the principles laid down in the CRC and the Hague Convention when the country they are working in is a State party to either one.

A prerequisite for intercountry adoption to respect the rights and interests of the children concerned is that all these actors agree on, and rigorously abide by, the common bases that the two Conventions provide. If just one fails to do so, there may already be a significant problem in preventing abuses. If two or more fail, major abuses will be virtually unavoidable, and children will become involved in the adoption procedure without regard to their best interests or human rights.

Other potential actors

The **Committee on the Rights of the Child** is at present the only international body with responsibility for monitoring respect for standards relating to intercountry adoption.⁵⁷ It has always paid close attention to adoption issues when reviewing States Parties' reports on implementation of the CRC, and has voiced deep concern on the question in relation to several country situations. The Committee also consistently urges all States involved in intercountry adoption to ratify the Hague Convention if they have not already done so.

The **UN Working Group on Contemporary Forms of Slavery** has added to its agenda a specific item devoted to 'illegal adoptions'. Since the Working Group's recommendations are usually passed up via the Sub-Commission to the Commission on Human Rights, the results of its debates on this question can have significant ramifications in terms of international policy and commitment.

UNICEF increasingly provides advice and

technical assistance on intercountry adoption issues to governments, the Committee on the Rights of the Child and NGOs. A small but growing number of its field offices are supporting efforts to ensure that all children's rights are respected in the adoption process. New procedures in cases of suspected illicit procedures have been proposed, including an active role in finding out the facts, transmitting this information to appropriate regional and Headquarters advisors, requesting government action/cooperation (e.g. halting adoptions or freezing departures) and making a public statement explaining concern and action.⁷⁷ In receiving countries, National Committees for UNICEF have an essential advocacy role to play in this area.

Human rights and child-focused NGOs, both international and national, have two key tasks to carry out according to their respective mandates: promoting good practice in adoption; and monitoring compliance with children's rights, publicizing and denouncing violations when necessary.

Lawyers can — and should — make a significant contribution by refusing to carry out tasks in the adoption procedure that go beyond their formal role as legal representatives, and declining to take on adoption cases in which they believe required procedures have not been scrupulously respected.

Finally, the **media** have an important role to play, in both countries of origin and, particularly, receiving countries. Media attention to the condition of children in conflict and post-conflict situations and other dramatic circumstances such as sudden and brutal economic change, often prompts a massive response from couples abroad who are seeking to adopt a child, and can lead to children's rights violations when attempts are made to meet this demand without reference to internationally accepted standards, procedures and guidelines. The media may contribute to and maintain that high level of demand by wrongly suggesting, explicitly or by omission, that children in institutions or emergency centres are adoptable 'orphans'. Some media descriptions of countries of origin are highly negative, even sensationalist, with no thought given to what effect such disparagement will have on older foreign adoptees who are struggling with issues of personal and national identity.⁴¹ At the same time, responsible media attention to the subject of intercountry adoption has helped to promote a fuller understanding of the various ways in which children's rights can either be violated or fulfilled in the adoption process.

This section contains information about the Central Authorities that have been established thus far by Contracting States of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. It also lists some of the major inter-governmental organizations and international and regional NGOs working on issues relating to intercountry adoption.

This listing is not meant to be comprehensive; nor does it represent a prioritization or ranking of organizations, but merely a first attempt to provide signposts in a highly complex field. It is hoped that the contacts listed will serve as links to organizations of various other types — international and national professional organizations, academic and other institutes, national NGOs and national bodies — whose work may be relevant to the topic. Some Internet information has also been included, which reflects websites available in December 1998; this information is, of course, subject to change.

Central Authorities

Andorra

Adoption Service
Ministry of Health and Welfare
Avenue Princep Benlloch No 30, 4a planta
AND-La Vella
Andorra
Tel.: +376 829346
Fax: +376 829347
Contact: Lourdes Gasset

Australia

Entry into force 1 December 1998

Burkina Faso

Ministère de l'Action Sociale et de la Famille
01 B.P. 515
Ouagadougou 01
Burkina Faso
Tel.: +226 306875
Fax: +226 316737
Contact: Fatoumata Ouattara

Burundi

Entry into force 1 February 1999

Canada

Canada has designated separate Central Authorities for the provinces of Alberta, British Columbia, Manitoba, New Brunswick, Prince Edward Island and Saskatchewan. The Central Authority at the federal level is:

Minister of Human Resources Development
National Adoption Desk
5th floor, Phase IV
Place du Portage
140 Promenade du Portage
Hull, Quebec K1A 0J9
Canada
Tel.: +1 819 9530911
Fax: +1 819 9531115
Contact: Lise Lavoie, Manager

Colombia

Entry into force 1 November 1998

Costa Rica

Consejo Nacional de Adopciones
Patronato Nacional de la Infancia
P.O. Box 5000-1000
San José
Costa Rica
Tel.: +506 2 228620
Fax: +506 2 533011
E-mail: sblanco@nb.casa.pres.go.cr
Contact: Marlen Gómez
President of the Junta directiva

Cyprus

Ministry of Labour and Social Insurance
7, Lord Byron Avenue
CY-1465 Nicosia
Cyprus
Tel.: +357 2 307241/2
Fax: +357 2 450993
Contact: Nicos Symeonides

Denmark

The Danish Ministry of Justice
Department of Private Law
(Civilretsdirektoratet)
Æbeløgade 1
DK-2100 Copenhagen Ø
Tel.: +45 33923302
Fax: +45 39271889
Contact: Centralmyndigheden for adoption

Ecuador

Dirección Nacional de Protección
de Menores Ministerio de Bienestar Social
Avenida Orellana 1725 y 9 de Octubre,
Quito
Ecuador
Tel.: +593 (2) 505883 - 544339
Fax: +593 (2) 505883
Contact: Dr. Victor Hugo Olmedo Cabrera
National Director

El Salvador

Entry into force 1 March 1999

Finland

The Finnish Board of Intercountry
Adoption Affairs
Ministry of Social Affairs and Health
Kirkkokatu 14
SF-00170 Helsinki
Finland
Tel.: +358 (9) 1601
Fax: +358 (9) 1603816
Contact: Anne Hujala

France

Mission de l'adoption internationale
244 boulevard Saint Germain
F-75303 Paris 07 SP
France
Tel.: +33 1 43.17.90.90
Fax: +33 1 43.17.93.44
E-mail: mai@diplomatie.fr
Web site: www.diplomatie.fr
Contact: Gérard Castex,
sous-directeur,
tel: +33 1 43.17.90.61, Mlle Isabelle Pouey,

conseille préjuridique, adjointe,
tel: +33 1 43.17.91.14,
E-mail: isabelle.pouey@diplomatie.fr

Lithuania

Agency of Children's Rights Security
Lietuvos Respublikos
Vaiku Teisiu Apsaugos Tarnyba
Prie Socialines Apsaugos Ir Darbo Ministerijos
A. Juozapaviciaus Street 10 A
2600 Vilnius
Lithuania
Tel.: +370 2 754149
Fax: +370 2 725825
Contact: Silva J. Savickalė
(Director: Valdas Vadoklis)

Mexico

Secretaría de Relaciones Exteriores
Consultoría Jurídica
Homero no. 213, Piso 17, Colonia Chapultepec
Morales
MEX-11570 Mexico
Mexico
Tel.: +52 (5) 3273218 or 3273219 or 25473 06
Fax: +52 (5) 3273201 or 32732 82
Contact: Dra. C. Galvez Coeto

Moldova

Entry into force 1 August 1998

Netherlands

Ministry of Justice
P.O. Box 20301
NL-2500 The Hague
The Netherlands
Tel.: +31 70 3707759
Fax: +31 70 3707507
E-mail: jvrooman@best-dep.minjus.nl
Contact: Marianne Daalmeijer
Responsible of the Adoption Board
Mr Jan Vroomans

New Zealand

Entry into force 1 January 1999

Norway

Governmental Office for Youth and Adoption
P.O. Box 8036 Dep
N-0030 Oslo
Norway
Tel.: +47 22242591
Fax: +47 22249523
E-mail:
morten.stephansen@suak.dep.telemax.no
Contact: Morten Stephansen

Paraguay

Entry into force 1 September 1998

Peru

Oficina de Adopciones
(Technical Secretariat for Adoptions)
Ministerio de Promoción de la Mujer y del
Desarrollo Humano (PROMUDEH)
JR. Camana 616
Lima 1
Peru
Tel.: +511 4289800
Fax: +511 4261665
E-mail:

mrodriquez@lima.promudeh.gob.pe
Website: www.promudeh.gob.pe/
Contact: Dra. Patricia Caceres de Villacorta
Head, Oficina de Adopciones

Philippines

The Inter-Country Adoption Board (ICAB)
2 Chicago Street corner Ermin Garcia
Barangay Pinagkaisahan
Quezon City
Philippines
Tel.: +63 2 4101643/4, 9318144
Fax: +63 2 727 2026 or 9512802
Contacts: Dr. Lourn Laraya
and Ms. Lourdes G. Balanon

Poland

Ministerstwo Edukacji Narodowej
(Ministry of National Education)
Al. Szucha 25
PL-00-918 Warsaw 7
Poland
Tel.: +48 29 726280461
Fax: +48 29 813523 or 813379 or 816841
Contact: Krzysztof Sikora, Co-Director
(Director: Elsbietta Podczaska)

Romania

Comitetul Român pentru Adopții
(The Romanian Committee for Adoptions)
Piața Victoriei Nr. 1
Sector 1
Bucharest
Romania
Tel.: +40 (1) 3127474/ 3127363
Fax: +40 (1) 2229384
Contact: Cristian Tabacaru, President

Spain

Spain has designated each of the 17
autonomous communities as Central Authority
for its territory. The National Central Authority is:
Dirección General de Acción Social, del
Menor y de la Familia, Ministerio de Trabajo
y Asuntos Sociales (Ministry of Labour and
Social Affairs)
c/ José Abascal, 39
28003 Madrid
España
Tel.: +34 91 3478125
Fax: +34 913478120
Contact: María Jesús Montané Merinerio Jefa,
Servicio de Adopción y Acogimiento Familiar
(Chief, Adoption Service and Fostering)

Sri Lanka

The Commissioner of Probation and Child
Care Services
Department of Probation and Child Care
Services
95, Sir Chittampalam A. Gardiner Mawatha
Colombo 2
Sri Lanka
Tel.: +94 (1) 327600
Fax: +94 (1) 327600

Sweden

Swedish National Board of Intercountry
Adoptions (NIA)
Box 22086
Norr Mälarsstrand 6

S-104 22 Stockholm
Sweden
Tel.: +46 08 6519292
Fax: +46 08 6504110
E-mail: adoption@nia.se
Contacts: Birgitta Thunström,
Head of Section
Kerstin Brudner,
Information Officer

Venezuela

Ministerio de Relaciones Exteriores de la
República de Venezuela
Dirección General Sectorial de Relaciones
Consulares
División de Asuntos Especiales
Torre M.R.E.
Conde A. Carmelitas, Piso 6
Caracas 1010
Venezuela
Tel.: +58 (2) 8621145/819691
Fax: +58 (2) 8622420
Contact: Gloria de Marino

Intergovernmental and non-governmental organizations

Casa Alianza/Covenant House Latin America
Apartado 1734
2050 San Pedro
Costa Rica
Tel.: +506 253 5439
Fax: +506 224 5689
E-mail: bruce@casa-alianza.org
Contact
Bruce Harris, Executive Director, Latin
American programmes
Year founded
1981 (first programme in Latin America)
1969 (Covenant House in the United States)
Geographical scope
Costa Rica, Guatemala, Honduras, Mexico,
Nicaragua
Activities
In addition to its outreach services, shelters
and homes for street children, has initiated a
programme that helps street girls bond with
and learn to care for their children. Services
include individual and group therapy, child-
care training, vocational training, as well as
paediatric and gynaecological treatment. The
Legal Aid Office in Guatemala has presented
18 criminal cases of anomalies in intercountry
adoptions since September 1997, winning one,
which resulted in the reunification of a mother
with her one-year-old son.

Web home page

Information about intercountry adoption
from Guatemala available in English,
Spanish and French.
<http://www.casa-alianza.org>

Commission Internationale de l'État Civil
(CIEC)
(International Commission on Civil Status)
Secrétariat Général
3 place Arnold

F-67000 Strasbourg

France

Tel.: +33 (0) 388 611862

Fax: +33 (0) 388 605879

Contact

Chantal Nast, Head of Administrative Services

Year founded

1948

Type of organization

Intergovernmental organization

Geographical scope

14 Member States: Austria, Belgium, France,
Germany, Greece, Italy, Luxembourg,
Netherlands, Poland, Portugal, Spain,
Switzerland, Turkey, United Kingdom.

Seven Observer States: Croatia, Holy See,
Hungary, Lithuania, Russian Federation,
Slovenia, Sweden. Cooperation agreements
concluded with the Council of Europe, the
European Union, The Hague Conference on
Private International Law, the United Nations
High Commissioner for Refugees

Activities

Establishes and keeps up to date legislative
and case-law documentation setting out the
law of the various member States in matters
relating to the status of persons, to the family
and to nationality; carries out studies and work
— in particular by drawing up
recommendations or draft conventions —
aimed at harmonizing the relevant provisions
in force in the member States; seeks legal and
technical means for improving the operation of
civil registration in the member States;
coordinates its activities with those of other
international bodies that also deal with the law
of persons and family law.

Information services

Provides texts of existing Conventions and
Recommendations and information on the
basis of collected documentation. Working
language is French.

Commonwealth Secretariat

Marlborough House

Pall Mall

London SW1Y 5HX

United Kingdom

Tel.: +44 171 7476410

Fax: +44 171 7476406

E-mail: R.Nzerem@Commonwealth.INT

Web home page:

<http://www.thecommonwealth.org>

Contact

R.C. Nzerem, Director, Legal and
Constitutional Affairs Division

Year founded

1966

Geographical scope

Global

Type of organization

NGO with Observer status with the Hague
Conference on Private International Law.

Activities

Facilitates cooperation and consensus
among member countries, builds bridges
across traditional international divides of
opinion on particular issues, provides
technical assistance on request to member
States for sustainable development, promotes
good governance in member countries. Has

worked over the years on issues relating to children, including the international abduction of children.

Information services

General information on the Commonwealth and its activities.

Council of Europe
Directorate of Legal Affairs
Division on Private Law
F-67075 Strasbourg Cedex
France

Tel.: +33 (0) 3 88413172/88412599

Fax: +33 (0) 3 88412794/88413745

E-mail: marta.requena-huertas@daj.coe.fr

Contact

Marta Requena, Administrative Officer

Year founded

1949

Type of organization

Intergovernmental organization

Geographical scope

40 European member States

Activities

A committee of the Council of Europe is currently dealing with different questions concerning the legal status of children and, in this context, work will be carried out concerning adoption.

Web home page

Bilingual French/English webpage providing public access to information about the activities of the Council of Europe; legal texts and summaries, in English, of the Council's treaties, including those relating to adoption; site search facilities; catalogue of publications; archive of press releases.
<http://www.coe.fr>

Defence for Children International (DCI)

P.O. Box 88
CH-1211 Geneva 20
Switzerland

Tel.: +41 22 7340558

Fax: +41 22 7401145

E-mail: dci-hq@pingnet.ch

Contact

Ricardo Dominicé, Secretary General

Year founded

1979

Type of organization

NGO with consultative status with the United Nations Economic and Social Council, UNICEF, UNESCO and the Council of Europe.

Geographical scope

National sections and associate members in over 60 countries on all continents.

Activities

Although DCI has no specific focal point or programme on intercountry adoption at present, it is closely involved in the work of the Hague Conference on Private International Law and promotes the Hague Convention on Intercountry Adoption through its extensive network. Maintains documentation centre on children's rights issues (nearly 13,000 items); publishes a newsletter on United Nations activities concerning the protection of the rights of the child and the *International Children's Rights Monitor*.

Web home page

Contains newsletter, overview of recent periodic State Reports to the Committee on the Rights of the Child, and up-to-date information about the Committee (members, agenda, list of States Parties). Also contains full text of relevant instruments (CRC and the Hague Convention on Intercountry Adoption) and explanatory articles by experts in the field.
<http://www.childhub.ch/webpub/dcihome>

EurAdopt

Association of Authorized Adoption

Organizations, Secretariat

Riouwstraat 191

2585 HT The Hague

Netherlands

Tel.: +31 (0) 70 350 6699

Fax: +31 (0) 70 354 7867

Contact

Lucile van Tuyll, Chair

Year founded

1993

Type of organization

NGO

Geographical scope

Members in Belgium, Cyprus, Denmark, Finland, France, Iceland, Italy, Luxembourg, Netherlands, Norway, Spain and Sweden

Activities

Advocates intercountry adoption as an option in child welfare when pursued in the best interests of the child; establishes common Ethical Rules and promotes their application to intercountry adoptions; promotes cooperation between governments and organizations; shares knowledge in matters of intercountry adoption with participating organizations; works to improve legislation and other measures for the protection of the child. Every two years, one EurAdopt member organizes a general meeting, including a conference for organizations, authorities and others involved in intercountry adoption.

Information services

Provides information on the EurAdopt

Ethical Rules, the names of EurAdopt members, and information on the situation in the member countries concerning the ratification of the Hague Convention on Intercountry Adoption.

Web home page

Contains information about the organization, its objectives, structure and member organizations. Also contains ethical rules to which member organizations have agreed to adhere.
<http://www.euradopt.org>

Hague Conference on Private International Law (CODIP)

6, Scheveningseweg

2517 KT The Hague

Netherlands

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Fax: +31 (0) 70 3604867

E-mail: codip@cistron.nl

Contact

William Duncan, First Secretary

Year founded

1893

Type of organization

Intergovernmental organization

Geographical scope

Africa: Egypt, Morocco

Americas: Argentina, Canada, Chile, Mexico, Suriname, United States, Uruguay, Venezuela

Asia/Australia: China, Israel, Japan, Republic of Korea, Australia

Europe: Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, the Former Yugoslav Republic of Macedonia, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom

Activities

Negotiates and drafts multilateral treaties (or Conventions) in the different fields of private international law (international judicial and administrative cooperation; conflict of laws for contracts, torts, etc.; jurisdiction of courts and enforcement of judgments) plus their monitoring; produces practical Handbooks on the Hague Service and Evidence Conventions.

Web home page

Contains full texts of the multilateral treaties drawn up by the Hague Conference, information on their status and explanatory reports. Also provides details of Central Authorities and accredited bodies under the Hague Convention and a bibliography.
<http://www.hcch.net>

Inter-American Children's Institute (IACI)

Instituto Interamericano del Niño (IIN)

Av. 8 de Octubre 2904

11600 Montevideo

Casilla de Correo 16212

Uruguay

Tel.: +598 2 4872150

Fax: +598 2 4873242

E-mail: piinfa@chasque.apc.org

Contact

Julio Rosenblatt, Coordinator, Inter-American Program on Information Concerning Children and Family Life (PIINFA)

Year founded

1927

Type of organization

Intergovernmental organization

Geographical scope

Latin America and the Caribbean

Activities

Advises on information systems for management of national child welfare institutions; provides training on social management of child welfare institutions; conducts research studies on comparative legislation; provides advisory services on codification of juvenile and family legislation; promotes regional legal instruments; provides training for adoption specialists; and evaluates child welfare systems.

Information services

Provides information relating to its studies.

International Association of Juvenile and Family Court Magistrates
Molenstraat 15

4851 SG Ulvenhout

The Netherlands

Tel.: +31 76 56 12 640

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+31 76 53 11 169

E-mail: j.vandergoes@tip.nl

Contact

Jacob J. van der Goes, Secretary General

Year founded

1926

Type of organization

NGO

Geographical scope

Affiliated associations and individual members worldwide

Activities

Has contributed to the drafting of international treaties relating to intercountry adoption; carries out research and studies on the implementation of these treaties and on related juridical problems.

Information services

Provides publications (periodical, research findings), contacts with members and member organizations, and information on ongoing research and projects.

International Council on Social Welfare (ICSW)

Head office

380 St. Antoine W.

Suite 3200

Montreal, Quebec

H2Y 3X7

Canada

Tel.: +1 514 287 3280

Fax: +1 514 287 9702

E-mail: icswintl@colba.net

Contact

Stephen King, Executive Director

Year founded

1928

Type of organization

NGO in consultative status with the Food and Agriculture Organization, the International Labour Organization (ILO), UNICEF, the United Nations Economic and Social Council and the World Health Organization

Geographical scope

Represents a range of international NGOs in over 70 countries, mostly in the developing world

Activities

Promotes sound and sustainable forms of social development, which aim to reduce poverty, hardship and vulnerability throughout the world; advocates fundamental rights to food, shelter, education, health care and other essential social services; carries out its mission through policy work, membership support, information dissemination (e.g. its quarterly publication *Social Development Review*) and public advocacy; holds sub-regional and global conferences on implementation of the goals of the World Summit for Social Development; collaborates

with United Nations agencies to help in the implementation of policies that will create greater social justice and economic equity.

Web home page

Includes updates on ICSW's international activities, WSSD implementation, overviews of its quarterly publications, and links to affiliated organizations.

<http://www.icsw.org>

International Federation of Human Rights (FIDH)

17, Passage de la Main d'Or

F-75011 Paris

France

Tel.: +33 1 43552518

Fax: +33 1 43551880

E-mail: fidh@hol.fr

Contact

Antoine Bernard, Executive Director

Year founded

1922

Type of organization

NGO with consultative or observer status with United Nations, UNESCO, Council of Europe, African Commission of Human and Peoples' Rights

Geographical scope

Members from 86 countries worldwide

Activities

Sends fact-finding missions throughout the world; sends judicial observation missions to attend trials; organizes training workshops for human rights activists and state administration staff; centralizes the information provided by its member organizations and coordinates their activities with international institutions; distributes its mission reports to the media, governments and international institutions.

Web home page

Information about FIDH activities; list of publications, arranged by country; full text of press releases on human rights issues. Can be viewed in English, French or Spanish.

<http://www.fidh.imagnet.fr>

International Federation of Social Workers
P.O. Box 4649

Sofienberg

N-0506 Oslo

Norway

Tel.: +47 23 061152

Fax: +47 23 061114

E-mail: secr.gen@ifsw.org

Contact

Tom Johannesen, Secretary General

Year founded

Originally founded 1928, refounded 1956

Type of organization

NGO with special consultative status with the Economic and Social Council of the United Nations and with UNICEF, in the ILO special list of NGOs, and accredited as an NGO with the Council of Europe and the European Commission.

Geographical scope

70 national associations of professional social workers worldwide with more than 440,000 members.

Activities

Promotes social work as a profession through cooperation and action on an international basis; supports national associations in promoting the participation of social workers in social planning and the formulation of social policies, nationally and internationally; encourages and facilitates contacts between social workers of all countries and provides a forum for discussion and the exchange of ideas and experience, through meetings, study visits, research projects, exchange of publications and other means of communication; and represents the profession on an international level. Currently preparing a policy statement on Intercountry Adoptions and Social Work, expected to be released in January 1999.

Web home page

General information about IFSW, schedule of conferences, regular and special publications on international social work.

<http://www.ifsw.org>

International Federation Terre des Hommes (IFTDH)

31, chemin Frank-Thomas

CH-1208 Geneva

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Fax: +41 22 7361510

E-mail: intl-rel@iftdh.org

Contact

Eylah Kadjar-Hamouda,

Representative to the United Nations

Year founded

1966

Type of organization

NGO in consultative status with the United Nations Economic and Social Council and with UNICEF

Geographic scope

Affiliated offices in Belgium, Canada, Denmark, France, Germany, Luxembourg, Netherlands, Switzerland and Syria; working with partners in 55 countries of Africa, Asia and Latin America

Activities

Committed to the legal regulation of international adoption as an effective way of protecting children and parents from exploitation and abuse. As such, contributed to drafting and promotion of the Hague Convention on Intercountry Adoption. IFTDH members also try to address root causes that compel parents to abandon children at birth (by, for instance, supporting development projects aimed at securing income-generating activities for poor families or mothers, setting up accessible day care centres); promotes domestic adoption.

Information services

Provides publications, contacts with different members of IFTDH network, information on projects and best practice.

Web home page

Details of mission, status and structure, and contact address. Will soon contain publications catalogue.

<http://www.iftdh.org>

International Foster Care Organisation Ltd (IFCO)

c/o National Foster Care Association

87 Blackfriars Road

London SE1 8HA

United Kingdom

Tel.: +44 171 620 6400

Fax: +44 171 620 6401

E-mail: nfca@fostercare.org.uk**Contact**

Gerri McAndrew, President

Year founded

1981

Geographical scope

International

Type of organization

NGO

Activities

Arranges regional and international conferences, provides training and consultancy services.

Information servicesQuarterly magazine. *International Standards on Foster Care*.**International Social Service (ISS or SSI)**

32 quai du Seujet

CH-1201 Geneva

Switzerland

Tel.: +41 22 9067709

Fax: +41 22 9067701

E-mail: irc.iss@span.ch**Contact**

Chantal Saclier, International Coordinator,

International Resource Centre (IRC)

Year founded

1924

Type of organization

NGO with consultative status with the Economic and Social Council of the United Nations, UNICEF and the Council of Europe.

Geographical scope

International

Activities

In the field of adoption, carries out individual international casework (searching for adoptees' origins, checking validity of birth family's consent on request from competent bodies, conducting homestudies in certain countries, and advising in cases of adoption disruption); maintains an international resource centre on the protection of children in adoption (IRC/ISS); carries out research on legislation and good practice in adoption-related matters, produces publications and disseminates information that promote children's rights in respect to adoption, gives professional support for carrying out situational analyses and running training programmes.

Information services

The ISS/IRC makes its information services available to Central Authorities, accredited bodies and children's rights organizations, but not to the general public. Useful documents and information relating to intercountry adoption are, however, accessible through ISS's website.

Web home page

Texts or extracts of the international conventions and declarations related to substitute family care; full texts of studies of particular interest for the promotion and implementation of children's rights in adoption; a database of documents on child protection. Currently in English and French. www.childhub.ch/iss

International Society of Family Law (ISFL)

c/o Professor Lynn Wardle

518 JRCB

Brigham Young University

Provo UT 84602

USA

Tel.: +1 801 3782617

Fax: +1 801 3785893 or 3595

E-mail: wardlel@lawgate.byu.edu**Contact**

Lynn D. Wardle, ISFL Secretary-General

Year founded

1973

Type of organization

NGO

Geographical scope

International

Activities

Organizes world scholarly conferences every three years and regional conferences in between. Carries out an annual international survey and publishes a semi-annual newsletter.

Information services

Experts available for conferences and consultation

Web home page

Contains ISFL Newsletter, a selection of recent publications of note by ISLR members and recent events of interest. <http://www.law.byu.edu/ISFL/Main.html>

United Nations High Commissioner for Refugees (UNHCR)

P.O. Box 2500

CH-1211 Geneva 2

Switzerland

Tel.: +41 22 7397798

Fax: +41 22 7397377

E-mail: hqpi00@unhcr.ch**Contact**

Antonio Fortin, Chief, General Legal Advice Section

Year founded

1951

Type of organization

Intergovernmental organization

Geographical scope

Worldwide

Activities

Protects refugees by promoting adherence to international agreements on refugees and constantly monitoring compliance by governments; assists refugees by coordinating the provision of shelter, food, water, sanitation and medical care in emergency situations; and seeks durable solutions for the problems of refugees through repatriation to their homeland, integration in first countries of asylum or resettlement to third countries. Has drawn up guidelines on adoption, especially during and after emergency phases, whose aim is to ensure that any adoption is undertaken only in the best interests of the child.

Web home page

Contains information about UNHCR's activities, press releases and a searchable collection of full-text databases with up-to-date information on refugee populations worldwide. French and German language versions also available. <http://www.unhcr.ch>

On the Web**National Adoption Information Clearinghouse**

On-line resource on all aspects of adoption, including infant, intercountry and special needs adoption, provided by the Administration for Children, Youth and Families, Department of Health and Human Services, Washington, DC. <http://www.calib.com/naic>

Information about International Adoption

Site organized by the Ministry of Community and Social Services, Ontario, Canada. Provides general information about international adoption as well as country-specific details. <http://www.gov.on.ca/CSS/page/brochure/intadopt.html>

Selected readings

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THE CONVENTION ON THE RIGHTS OF THE CHILD

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, *inter alia*, foster placement, Kafala of Islamic Law, adoption, or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that intercountry adoption may be considered as an alternative means of a child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in intercountry adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

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PAST ISSUES

ID 1: Ombudwork for Children, 1997, 20 pp.

This *Digest* provides information on the recent and expanding phenomenon of ombudsmen/commissioners for children. It discusses the history of ombudwork; patterns in the origin, development, mandate and status of the different types of ombudsman offices; the functions of ombudwork in theory and practice; and characteristics essential to this kind of work. It ends with details of 16 existing ombudsmen/commissioners for children and a selected bibliography on the topic.

ID 2: Children and Violence, 1997, 24 pp.

This *Digest* explores interpersonal violence to and by children, using the Convention on the Rights of the Child as its framework. Sexual abuse and exploitation, children's involvement in armed conflict, the prevalence of violence involving children and the reasons that children become violent are among the main issues explored. The *Digest* ends with a discussion on strategies for combating violence involving children. Contact and programme details of regional and international NGOs working in this area, and a compilation of selected readings are also provided.

ID 3: Juvenile Justice, 1998, 24pp.

The third *Innocenti Digest* deals with the main issues connected with children and young people coming into conflict with the law and contact with the justice system. It looks at standards and problems from arrest through to the court hearing and sentencing, use of custodial measures and ways of avoiding the child's unnecessary and counter-productive involvement with the formal justice system. It also covers prevention questions. Like previous publications in the series, it contains practical information on the major players and sources of further, more detailed information.



The UNICEF International Child Development Centre, often referred to as the *Innocenti Centre*, was established in Florence, Italy, in 1988. The Centre undertakes and promotes policy analysis and applied research, provides a forum for international professional exchanges of experiences, and disseminates ideas and research results emanating from its activities. On a highly selective basis, in areas of programme relevance, the Centre also provides training and capacity-building opportunities for UNICEF staff and professionals in other institutions with which UNICEF cooperates. The Centre is housed within the *Spedale degli Innocenti*, a founding hospital that has been serving abandoned or needy children since 1445. Designed by Filippo Brunelleschi, the *Spedale* is one of the outstanding architectural works of the early European Renaissance.

This issue of the *Innocenti Digest* has been compiled principally by Nigel Cantwell, Senior Project Officer at ICDC. The founder of the Geneva-based NGO, Defence for Children International, he participated actively in the drafting of the CRC and the Hague Convention on Intercountry Adoption and has carried out advisory work on intercountry adoptions with or for several UNICEF offices, notably in Central Europe. Chantal Saclier also contributed to various sections of the *Digest*, especially those relating to good practice, in addition to writing the Discussion Site. An active participant in the drafting of the Hague Convention on Intercountry Adoption, she is currently Program Director at the International Social Service (ISS) headquarters, in Geneva. The Centre is grateful to experts who reviewed the various drafts of this publication, in particular: Hans van Loon, Secretary General of the Hague Conference on Private International Law, The Hague; and Ms. Lourdes Balanon, Director, Programs and Special Projects Bureau, Department of Social Welfare and Development, Philippines. Special thanks go also to ISS's International Resource Centre on the Protection of Children in Adoption, Geneva; and to the various Central Authorities, UNICEF country offices and National Committees for UNICEF that have provided information for this *Digest*.

The opinions expressed are those of the authors and do not necessarily reflect the policies or views of UNICEF.

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