

# Intercountry child adoption requires close scrutiny

By: **FRED K. NKUSI**

Most recently, the Government lifted the ban which had been imposed on foreigners or persons outside Rwanda to adopt children in the country. Initially, the decision to bar the adoption of Rwandan children was based on reasonable concerns that children's best interest may not be potentially catered for. It was important to first ensure the protection of adopted children while abroad.

To start with, prospective adoptive parents had to comply with the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The Hague Convention is an international agreement to safeguard intercountry adoptions. It was concluded in 1993 to establish international standards of practices for intercountry adoptions.

Interestingly, adopting a child from a Convention country is similar in many ways to adopting a child from a country not party to the Convention. However, there are some key differences. In particular, those seeking to adopt may receive greater protections if they adopt from a Convention country.

Like many countries, Rwanda ratified this Convention and entered into force for Rwanda in July, 2012. Therefore, lifting the ban implies that concerns are perhaps no more. Equally, it signifies the country's willingness and ability to adhere to its international obligations under the Convention. The Convention, however, requires that State parties to it establish a Central Authority to be the authoritative source of information and point of contact. But, what's the objective of the Convention? The Convention aims to prevent the abduction, sale of, or trafficking in children, and it works to ensure that intercountry adoptions are in the best interests of children. The Convention recognizes intercountry adoption as a means of offering the advantage of a permanent home to a child when a suitable family has not been found in the child's country of origin. Nevertheless, it must be done in the child's best interest. In so doing, State parties to the Convention are required to take steps to ensure two main things. F

irst, to be factually certain that child has been deemed eligible for adoption by the child's country of origin. Second, the consideration has been given to finding an adoption placement for the child in its country of origin.

Rwanda's adherence to intercountry adoption Convention is well expressed in the law N° 32/2016 of 28/08/2016 governing persons and family. To begin with, this law recognises two forms of adoption. The first one is simple adoption, as seen in Article 288, which refers to maintaining filiation ties with the adoptee's family of origin, and the second is full adoption, as seen in Article 294 of the same law, that completely severs filiation ties with the adoptee's family of origin. However, the severance of filiation ties with the family of origin does not entail the loss of rights to his/her country. In these two forms of adoption, law provides specific requirements for adoption to be justified in each category.

More specifically, the foregoing law envisages 'intercountry Adoption' which creates relationship between a child and an adoptive parent with whom he/she has no kinship relationship but both are not domiciled in the same country. And intercountry adoption can either be simple adoption or full adoption. However, the law doesn't simply grant a blanket green light, there're essential requirements to be met prior to approving the adoption, such as adoption aimed at the interests of the child; there is no other person in the country of origin of the child to be adopted who wishes to adopt the child; the consent of those required to consent to the adoption was freely given and that all of them got necessary advice and were duly informed on consequences of their consent; the receiving State where the adopted child is to be transferred has proved that the intending intercountry adoptive parent has enough capacity to cater for the child and is of good moral integrity required for adoption; and the country of the intending adoptive parent has approved that the child will be allowed to enter and reside in such a country on a permanent basis.

In addition to having policy and statutory frameworks for child adoption, there's an institutional framework to foster child rights/interests. That's the National Commission for Children (NCC) whose core mandate is to promote and ensure child education that enables the child to be a worthy and patriotic citizen, among others.

Importantly, the NCC serves as a Central Authority mandated to be the authoritative source of information and point of contact on behalf of the government.

This isn't, however, enough to ensure the protection of the child's best interest, there's also a need to have a monitoring mechanism for intercountry adoption to constantly keep abreast of any development on a child's life. And, in case of non-compliance with agreed standards by adoptive parents, there must be a mechanism to resolve the issue or, if need be, to rescind the agreement for child adoption through court process.

Today, no one overlooks a barrage of cases of child abuse, exploitation and violence happening in various places around the world. Therefore, a very cautious approach is needed to ensure that the adopted children's rights are never abused.

***Email: frednkusi88@gmail.com***