

**Save the Children**

## **International adoption**

### **Policy brief**

**International adoption can give children the chance to experience family life and offer them other opportunities they would not have in their country of origin. But it also poses significant problems and risks. Children can be unnecessarily denied the opportunity to live with their parents or relatives and can be exposed to trauma and long-term emotional problems. The financial aspects of international adoption can encourage malpractice and accelerate the proliferation of poor quality orphanages. They can also divert resources from the development of good-quality alternative care for children in their own communities.**

### **What is international adoption?**

Adoption is when a child is permanently placed with a parent or parents other than his or her birth parents, and parental rights and responsibilities are transferred from the biological parents to the adoptive parents. International adoption takes place when the adoptive parents live in another country and the child is moved to that country.

Since the mid-1990s, the number of international adoptions each year has nearly doubled, from 22,000 in 1995 to just under 40,000 in 2006.<sup>1</sup> The vast majority of international adoptions involve children moving from developing to developed countries. Prominent sending countries have included Guatemala, China and central and eastern European countries such as Romania. During recent years, the geographic spread of sending countries has changed significantly, with increasing numbers of international adoptions from some African states. For example, between 2000 and 2006, adoptions to the United States from Liberia rose tenfold.<sup>2</sup> Prominent receiving countries include the United States, France, Spain and Italy. International adoptions into the UK are relatively low with only 225 applications for international adoption being made in 2008.

## How is international adoption regulated?

Because of the sums of money involved,<sup>3</sup> children and prospective adoptive parents are at risk of being exploited for financial gain by those ‘facilitating’ the process. Nearly half of the 40 countries listed by the US State Department as the top sources for international adoption over the past 15 years have at least temporarily halted adoptions due to serious concerns about corruption and procedural abuses.<sup>4</sup>

The key instrument in international law that aims to regulate international adoption is the 1993 Hague Convention on International Adoption – although the Convention is only binding on participating countries.<sup>5</sup> The Convention aims to protect children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad. Currently, 81 countries are parties to the Convention, but a number of important countries, such as Liberia and Ethiopia, have still not acceded to it.

## The debate on international adoption

International adoption is an area of vigorous debate. However, there is a certain amount of common ground. Most people agree that international adoption is an option that may be appropriate for some children in some circumstances if they are unable to live with their birth family. There is also agreement that international adoption creates a risk of abuses and malpractices that undermine the primary focus on the best interests of the child. Finally, there is agreement that institutions are often damaging places for children to spend any time, and that efforts should be made to prevent most children from entering them and to minimise the time they spend there if such a placement occurs. Significant differences of opinion remain, however, as outlined below.

## The importance of the birth family

Many if not most prospective adoptive children from developing countries are not orphans and have one or both parents living, as well as other relatives. They include babies and older children who have never lived in an orphanage, as well as children who have been abandoned or given up to a local institution due to poverty, or who have been caught up in natural disasters such as severe flooding or earthquakes.

The UN Convention on the Rights of the Child (UNCRC) states that wherever possible:

- a child should be raised by his or her birth family
- the child has the right to know and be cared for by his or her parents
- governments should give appropriate assistance to parents in the performance of their child-rearing responsibilities
- governments should ensure that a child shall not be separated from his or her parents against their will.

Some advocates of international adoption suggest that when children have been separated from their families they should be made immediately available for national or international adoption unless reunification or another form of permanent placement is likely in the ‘near future’.<sup>6</sup> Save the Children UK – in common with most professional practice

and based on the importance given to ensuring children grow up in their birth family – argues for much more effort to support and preserve families so that they can avoid separation or recover their children if separation occurs.

### **Regulation versus facilitation**

It is widely accepted that international adoption requires some degree of regulation. However, excessive regulation may deny or delay the chance of adoption to a child in great need while permissive regulation may expose the same child to the risk of inappropriate or exploitative adoption. The evidence from countries such as Liberia and Nepal – which have not yet ratified the Hague Convention – suggests that without effective regulation the risks of child trafficking and abduction, the deception of birth parents, and procedural irregularities increase significantly.<sup>7</sup>

We recognise that ensuring that these problems are addressed may require regulation that seems an unhelpful obstacle in what may appear an urgent humanitarian act. We would argue, however, that it is essential in protecting children's best interests.

### **A child's identity and cultural heritage**

By definition, international adoption removes a child from its country of origin and relocates her or him in a different social and cultural setting. Some advocates argue that 'homeless' and 'unparented' children 'cannot expect to enjoy their cultural heritage in any meaningful way' and are therefore no worse off by being placed in a new social and cultural environment.<sup>8</sup> Others urge that greater consideration should be given to the potentially negative impact of international adoption on the psychological and social wellbeing of children, their sense of identity and their cultural heritage.<sup>9</sup> For children adopted overseas, the impact on their immediate and long-term wellbeing appears to be more significant than originally understood. These effects are important considerations.

### **Domestic alternative care options versus international adoption**

Supporters of international adoption would like to see a 'level playing field' in which international adoption is no more difficult than national adoption and in which it is considered as an option from the moment care planning begins. However, Article 21 of the UNCRC indicates that a family-based alternative in the child's country of origin with relatives or a suitably-qualified care-giver should be seen as the next best option to remaining in the birth family. Failing this, international adoption, properly conducted and well-regulated, may offer the possibility of a permanent family for a child where a suitable family within the child's country of origin cannot be found.<sup>10</sup> As an agency committed to the fulfilment of children's rights, Save the Children UK supports the Convention's guidance.

This need for a hierarchy of care options is supported by a concern that international adoption diverts resources away from the development of good quality domestic care options. This concern arises from a variety of observations, including that the proliferation of poor-quality orphanages and institutions seems to be linked in some countries to the growth of international adoption;<sup>11</sup> and that international adoption acts as a 'safety valve', reducing the pressure for reform of the domestic care system.

## What we're calling for

- **Greater investment in local family-based support services.** Governments, donors, NGOs, and faith-based organisations working in developing countries should give much greater support to family-support services and structures that enable 'at risk' children to be cared for in their own families and communities, and separated children to return to their families and communities. These services and structures should be developed in line with international norms and standards, including those laid out in the *Guidelines on the Alternative Care of Children*.
- **Effective regulation of international adoptions.** Those countries that have not already signed and ratified the Hague Convention on the Protection of Children and Co-operation in Respect of International Adoption should do so. Legal, judicial and monitoring services should be in place to ensure that all international adoptions are in the best interests of children and that perpetrators of any abuses are brought to justice.
- **Urgent efforts to close or improve the quality of care within orphanages** and other forms of institutional care. While in the long-term all countries should develop family-based care alternatives, standards should be improved within existing orphanages while those alternatives are constructed.
- **Prospective adoptive parents should help to ensure that international adoption is in the child's best interest.** National adoption in the prospective adoptive parents' own country should be considered first. Children should only be adopted out of countries that have signed and ratified the Hague Convention. Adoptions should be pursued through official channels only, using reputable non-profit agencies that follow internationally-agreed procedures.

## References

<sup>1</sup> See P Selman (2006) 'Trends in International Adoption: Analysis of Data from 20 Receiving Countries, 1998–2004', *Journal of Population Research* Vol 23, No. 2, pp183-204 and the US State Department's Office of Children's Issues International Adoption statistics website [http://adoption.state.gov/news/total\\_chart.html](http://adoption.state.gov/news/total_chart.html)

<sup>2</sup> US Department of State Office of Children's Issues: International Adoption, Liberia at <http://adoption.state.gov/country/liberia.html>

<sup>3</sup> Adoptive parents are charged on average 20,000 Euros by adoption agencies, excluding travel and visa costs. Chou, Browne and Kirkaldy (2005) *International Adoption on the Internet*. Proceedings of the 10<sup>th</sup> European Conference on Child Abuse and Neglect.

<sup>4</sup> EJ Graff (2008) 'The Lie we Love', in *Foreign Policy*, Nov/Dec 2008: USA

<sup>5</sup> Non-Hague countries involved in International adoption include Ethiopia, Liberia, Nepal, and Russia.

<sup>6</sup> Harvard Law School Child Advocacy Program (2008) *International Adoption Policy Statement and Supporting Report*, p1.

<sup>7</sup> See, for example, UNMIL (2007) *Human Rights in Liberian orphanages*; Holt International Children's Services and UNICEF (2007) *An Assessment Of The Inter Country Adoption Laws, Policies And Practices in Liberia*; and UNICEF/Terre des Hommes Foundation (2008) *Adopting the Rights of the Child: a study on international adoption and its influence on child protection in Nepal*

<sup>8</sup> Harvard Law School Child Advocacy Program (2008) *International Adoption Policy Statement and Supporting Report*, p5. But many adoptive parents consider maintaining such cultural links part of their responsibilities.

<sup>9</sup> J Oreskovic and T Maskew (2008) 'Red Thread or Slender Reed: deconstructing Prof. Bartholet's mythology of international adoption', *Buffalo Human Rights Law Review* Vol 147, p122

<sup>10</sup> This hierarchy of response is sometimes referred to as the principle of subsidiarity.

<sup>11</sup> Awareness of the possibility of international adoption may encourage parents to place their children in orphanages in the hope that they will be adopted by a wealthy family overseas.