



THE DONALDSON  
ADOPTION INSTITUTE

# A CHANGING WORLD:

Shaping Best Practices through Understanding  
Of the New Realities of Intercountry Adoption

*A Policy & Practice Perspective from the Donaldson Adoption Institute.*

*Ellen Pinderhughes, Jessica Matthews,  
Georgia Deoudes and Adam Pertman*

*With funding from the American Ireland Fund  
and the Donaldson Adoption Institute*

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Policy & Practice Perspective

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Funded by: American Ireland Fund and the Donaldson Adoption Institute

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## ACRONYMS

<b>AF</b>	Adoptive Family	<b>HCIA</b>	Hague Adoption Convention
<b>AP</b>	Adoptive Parent	<b>ICA</b>	Intercountry Adoption
<b>BF</b>	Birth Family	<b>PAP</b>	Prospective Adoptive Parent
<b>BP</b>	Birth Parent	<b>PI</b>	post-institutionalized
<b>BPC</b>	Birth Parent Contact	<b>RC</b>	Receiving Country
<b>COO</b>	Country of Origin	<b>SN</b>	Special Needs

## DEFINITIONS

<b>Birth/biological parent</b>	- term often used to refer to a parent who is considering adoption for her/his child or who has placed a child for adoption; as language has evolved, the word “expectant mother” (or father) is preferred before adoption and “first parent” is coming into use afterward.
<b>First family (mother/father/parent)</b>	- this term usually applies to either a birth or foster family both before and after the relinquishment of a child
<b>Unparented child</b>	- the child who is not currently under parental care of any kind; this child may or may not have living biological parents
<b>HCIA-signatory</b>	- a country that has signed and ratified the Hague Adoption Convention
<b>non-HCIA-signatory</b>	- a country that has not signed or ratified the Hague Adoption Convention

## EXECUTIVE SUMMARY

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A chilling story has been getting considerable attention in the news during recent weeks: Adoptive parents around the U.S., feeling unable to cope with the severity of their children's problems, are using the internet to informally move them into new families – without any professional guidance, support, monitoring, supervision or regulation. The process is called “[re-homing](#),” and it clearly needs to be addressed (i.e., stopped) with targeted laws, policies and practices.

At the same time, this phenomenon needs to be viewed as more than a window into the struggles of a relatively small number of people. Rather, it should be understood as a cautionary tale about what can happen when parents are not prepared for the needs of the children they adopt, and don't receive the necessary training, support or services to meet those needs (see “[Keeping the Promise](#)”). It also should be seen as the tip of an iceberg of unmonitored, unregulated adoption-related activities taking place on the Internet (see “[Untangling the Web](#)”).

Finally and pointedly – in the context of this new study by the Donaldson Adoption Institute – the “re-homing” story should be understood as an insight into the changing world of intercountry adoption, because nearly all of the children in the news being “re-homed” were adopted from abroad.

The Adoption Institute study shows that a growing number of the girls and boys being adopted from other nations today are not the infants of adoption's recent past but, instead, are older children with sometimes-serious special needs. As a consequence of this new reality, the study recommends (among many other things) that best practices be created, reshaped and implemented to enable all of their families to succeed and, for those with severe problems, to prevent the kind of distress that leads desperate parents to seek radical solutions like “re-homing.”

“A Changing World” represents the most extensive independent research into intercountry adoption to date, including into the regulatory framework/treaty called the Hague Convention on Intercountry Adoption (HCIA). The research – funded by the American Ireland Fund and the Adoption Institute – was conducted over the past two years by scholars at Tufts University and the Institute; among its components are surveys of about 1,500 adoptive parents, adoption professionals in the U.S. and other “receiving” countries and countries of origin, as well as interviews with senior policymakers in 19 nations.

Key findings in our study, based on the responses from parents and professionals, as well as an extensive literature review and additional research, include:

- More children are remaining in orphanages for longer periods of time, thereby incurring the increased developmental and psychic harm that comes from being institutionalized, while also diminishing their prospects for ever moving into a permanent family.
- Though many prospective parents (35% of our sample) chose intercountry adoption in order to avoid contact with children's families of origin, a fast-growing number change their minds, often regretting their decisions, and seek connections for the sake of their children – which is leading to a large and growing increase in international open adoptions.
- Many countries of origin, including the largest ones such as China, are increasingly allowing the intercountry adoption primarily or exclusively of children who have special needs, are older, and/or are in sibling groups (to be adopted together).
- While the overwhelming focus for children in U.S. foster care is finding permanency domestically, American officials are also endorsing adoptions for some of them into families abroad. Ninety-nine children were adopted out of the U.S. last year, most privately as infants but also some from the child welfare system.
- There is greater transparency and consistency in the international adoption process, as well as an increased focus on the best interests of and protections for children who need families, though there is great variability from country to country.
- Bribery and other corruption in some countries, according to a professional survey in our study – affirming other research – appear to be occurring at higher bureaucratic levels since the HCIA was implemented.
- While the HCIA's intention is to create a hierarchy in which the first priority is keeping children in their home nations, biological relatives in some countries sometimes cannot meet implementation standards, and are therefore excluded from adopting.
- The ongoing changes in the world of intercountry adoption have contributed to a steep drop in numbers (from a peak of almost 23,000 adoptions into the U.S. from abroad in 2004 to fewer than 9,000 last year – and globally from over 45,000 to 19,500 during that period) and to rising costs (an international adoption today often exceeds \$50,000).

Based on its analysis of the research findings, the Institute's recommendations include:

1. To the greatest extent possible, countries of origin should provide more-complete and accurate diagnoses/records regarding medical and mental health issues; the Institute's study found these are often lacking, thereby making it more difficult for adopting families to prepare for and meet their children's needs. Our findings in Chapter 3 on *Special Needs Adoptions* and in Appendix B: Additional Findings inform this recommendation.
  - All children have a human right to care that facilitates their healthy development. For children not being raised by their parents, this includes the provision of competent caregiving that meets global standards.



- Children in out-of-home care should receive comprehensive, developmentally based assessments that can inform caregiving and limit risks for developmental delays. As a result, children’s well-being can be maximized, and the likelihood of adoptive placement –whether domestic or intercountry – is increased.
2. Receiving countries should offer more training and resources to help countries of origin improve their child welfare and adoption systems, thereby helping more children while showing that their primary interest is not just increasing the number of intercountry adoptions. Because COOs overwhelmingly have fewer resources and less-developed child welfare and adoption systems – and because they often distrust the motives of adopting nations – the Institute recommends that agencies, NGOs and governmental entities in more-affluent receiving countries offer more training, education and other means of improving those systems, while also enhancing knowledge about the negative impact of institutionalization. Our findings in Chapter 3: Special Needs Adoption, Chapter 5, HCIA Implementation, and Appendix B: Additional Findings inform this recommendation.

In addition to the specific adoptions in which they have engaged, receiving nations should provide meaningful support to countries of origin – particularly in the areas of education and training – to enhance HCIA’s implementation. Children’s human rights will be optimized when there is global support for maintaining them in their biological families.

- In situations where it is untenable for children to live in safety and stability with their birth parents, and when supports or extended family alternatives prove ineffective, swift placement in family-based care leading to adoption is optimal.
  - Poverty should not be a reason for ICA, so receiving countries should work collaboratively on creative ways to offer support so that as many children as possible can be raised in families of origin. Possible pathways include developing a global collaboration that provides funds to support biological families, or bilateral collaborations between specific COOs and RCs, for example, in which adoptive parents might contribute to a fund that would provide services to families of origin.
  - Multiple areas of education and training – as well as equipment and resources – are needed for caregivers and support professionals on the effects of institutionalization and on providing developmentally appropriate assessments.
3. Receiving countries should create and provide a continuum of services and supports for pre-adoptive and adoptive families; the Institute’s study found that families too often do not know where to turn for help, and that the assistance they need sometimes is not available. Our findings in Chapter 3 on *Special Needs Adoptions* and in Appendix B: Additional Findings inform this recommendation.

- Prospective adoptive parents (PAPs) should receive more and better preparation from adoption service providers. First, home studies should more explicitly address ICA issues. Second, preparation for dealing with special needs and openness is critical. Recommendations 5 and 6 address these in more detail.
4. To the extent possible given their economic and social realities, countries of origin should develop and provide better adoption education and supports for domestic families who might consider adopting. The goal should be that more prospective parents view adoption as a positive option and, consequently, more children can be placed in families in their own communities. Our findings from Chapter 5: HCIA Implementation and in Appendix B: Additional Findings inform this recommendation.
- A defining principle of the HCIA is “subsidiarity,” in which all efforts to create permanency for children in their homelands should be exhausted before ICA is considered. In order for countries of origin to be able to fully observe this principle, additional supports are needed for domestic adoption. Given the definitive findings on the negative impact of institutionalization and lack of permanency on children’s development, COOs should aim to set limits on the amount of time spent searching for a domestic placement.
  - Support for domestic adoption, through subsidies or other financial assistance – again, to the extent possible given their economic and social realities – would enable COOs to function more consistently with the subsidiarity principle of the HCIA, which calls for exhausting domestic options for permanency for children.
5. Adoption practitioners should provide more and better information for prospective and adoptive parents about the prospects/realities of making and maintaining contact with families of origin, and about positive ways to navigate possible relationships. Our findings from Chapter 4: Birth Family Contact inform these recommendations.
- For those children whose biological parents or other relatives are living, having contact is important. Even when the process is complicated, all parties to adoption stand to benefit from such arrangements. Contact after the decision to relinquish and just before or at placement has the potential to reduce adoption abuses. Post-placement contact over time also can provide important connections that aid adoptees’ identity development.
  - Agencies and professionals in receiving countries should improve structures and processes for supporting families who want or already have contact with their children’s birth families. These might include assistance in searching, providing information on drawing up agreements and helping families to communicate.

- The lack of information on birth parents, and other aspects of children’s origins, not only makes it difficult for adoption professionals and adoptive parents to address children’s needs, but also is not consistent with the HCIA and does not meet children’s human rights. More consistent collection and better storage of such information is needed and should be a goal of all concerned.
6. Practitioners should provide more and better information for pre- and adoptive parents about the realities of raising a child with special needs. Fewer than 25 percent of parents in our study planned to adopt such a child, but 47 percent wound up doing so. Our findings from Chapter 3, Special Needs Adoption and Appendix B: Additional Findings inform this recommendation.
- All prospective adoptive parents must be educated about the fact that they may raise children with at least one special need – whether or not that was their intent and regardless of the content of the medical dossier. Adoption agencies, pediatricians and other care providers should offer a continuum of comprehensive services and supports for families over time.
7. Improved implementation of the HCIA in countries of origin and in receiving countries will enhance the impact of this international treaty and ensure that children’s human rights are met. Our findings from Chapter 5: HCIA Implementation inform this recommendation.
- Increasing the transparency of verification procedures would be an important step forward in reducing dubious practices. In addition, Children in need of permanency deserve careful and comprehensive verification of their availability for adoption, so more-thorough review of all forms of documentation is essential.
  - More consistent implementation of HCIA within both countries of origin and receiving nations will broaden the reach of sound intercountry adoption practices to more children in need. The principle of consistency also should be applied to receiving nations that collaborate with non-signatory countries of origin.
  - Policies should be developed for redress of anyone who is victimized by documented adoption practice abuses. In addition, designing these policies at the global, rather than bilateral, level could reduce the power imbalance that exists between receiving nations and countries of origin.

Based on interviews with policymakers, the Institute offers these additional recommendations:

- Increase oversight of Hague Convention implementation in order to identify and rectify country non-compliance.

- Improve record-keeping on children in need, including on family connections and post-placement reporting.
- Better define standards and definitions on key issues such as “subsidiarity,” informed consent and costs/fees/donations.
- Identify and disseminate best practices through specific case studies.
- Convene RCs and COOs to identify challenges and possible solutions.
- Develop models and create international funding mechanisms to help nations of origin build/improve their adoption child welfare systems.

## Conclusion

Intercountry adoption has changed comprehensively during the last few decades – and is still in the midst of its transformation from a robust but largely unmonitored process through which tens of thousands of infants and toddlers moved into new homes annually, into a smaller but better-regulated system serving primarily children who are older and/or have special needs. At the same time, uncountable hundreds of thousands (and probably far more) of boys and girls of all ages remain institutionalized in countries around the globe, many if not most with minimal prospects of ever living in a family or reaching their potential. The accumulation of greater knowledge about domestic and intercountry adoption is critical to shaping, improving and implementing the laws, policies and practices that are ostensibly designed, first and foremost, to serve these children’s interests and to enhance their prospects for better lives.

## I. INTRODUCTION

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**I**ntercountry adoption (ICA) is the placement of children from their countries of origin (COOs) with families in other countries, typically referred to as receiving countries (RCs). These placements usually are viewed as permanent (Hague Conference on Private International Law, 1993). ICA dates back to the 1940s, immediately following WWII, and has evolved, 70 years later, to be a major practice internationally.

### The Changing Contexts of ICA

ICA has evolved since the 1940s in the context of significant changes in views and practices about domestic adoption, in intercountry relationships, in international views and practices about the care and protection of children, and in methods of interpersonal contact and communication.

#### **Domestic Adoption as Context**

Historically, domestic adoption has been more common in RCs than in COOs. Although domestic adoption in a number of RCs dates back to the 1900s (e.g., Australia, Netherlands, Sweden, U.K. and U.S), it has evolved within each country, shaped in part by its values about how to address the needs of children without permanent homes, as well as by available resources. Consider the history of the U.S., which is the major receiving country involved in ICA. The U.S. has a long history of finding children for families that dates back to the orphan trains beginning in the mid-1800s. From the mid-1900s forward, infants were found for infertile couples who desired a child to complete their families; children were matched to their future parents based on physical appearance to minimize or hide the reality of how their families were formed. They were often told to proceed as if they were a “real” family connected through biology (Kirk, 1964).

As social mores in the 1960s through the 1980s relaxed, unwed motherhood became less stigmatized even as abortion and birth control became more available, which resulted in a dramatic decrease of infants available for adoption. Meanwhile, the number of children in foster care in the U.S. increased dramatically, but many remained in care for years before they became free for adoption. Families seeking infants or very young children began to turn to ICA – especially as adoption became possible from China and the states of the former Soviet Union – as an alternative to waiting for years for the possibility of an infant, or adopting an older child from foster care.

Other developments within domestic adoption also served to increase ICA. As is discussed in greater detail in the third section below on birth parent contact (BPC), over the past 15-20 years in the U.S., contact between first parents and adoptive parents (a.k.a. “openness”) has evolved as research has found it can benefit all parties (Grotevant & McRoy, 1998; Grotevant, McRoy and Ayers-Lopez, 2004). As acceptance of openness has evolved, the number of adoptive placements that have some contact has increased. In addition to increased openness in adoptions, the rights of first/birth parents who voluntarily make adoption plans have increased in some RCs. For example, it is common for expectant parents who voluntarily make adoption plans to select the family with whom to place their children. However, some prospective adoptive parent, do not want birth parent contact and/or are averse to the process of being chosen/rejected, so they choose ICA instead (Zhang & Lee, 2010).

Countries of origin also have had their unique paths toward ICA. The common denominator among them, however is that they generally did not have developed child welfare systems that included adoption – and, commonly, did not include out-of-family adoption as a culturally acceptable/viable type of family formation. In some countries, institutional care has been the placement of choice, resulting in hundreds or thousands of children tended to in sometimes appalling conditions (Marcovitch, 1995; Chisholm, 1998). In recent years, however, a growing number of countries have moved to develop domestic adoption as an option for children who cannot remain with their biological parents (e.g., Romania). In some cases, these developments have evolved as a result of countries signing and ratifying *The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention, HCIA), which will be described in detail later in this chapter.

Consider the history of China, the country of origin with the largest number of children who have been adopted internationally in the past 10 years. Since 1992, when China implemented its law allowing ICAs, the number of children adopted into other countries increased dramatically. ICA stood in stark contrast to what adoption professionals and researchers believed was a culturally grounded hesitance for formal domestic adoption (Johnson, 2012). Tens of thousands of girls have been placed through ICA since then, with placements peaking in 2005, when approximately 14,500 Chinese children were adopted in other countries. In recent years, formal domestic adoption in China has increased steadily, providing in-country options for safe, permanent, family-based placements for young children and those without significant special needs. As domestic placements of these children have risen, China also has established its Waiting Child program, which focuses on placing children with special needs through ICA.

With its own unique path, the U.S. now also serves as a COO as well as an RC. U.S. policymakers have an established protocol for these placements, termed “outgoing adoptions” (U.S. DOS, 2011). These fall into two distinct groups. One group of children placed out of the U.S. through ICAs includes those in foster care, many of whom have special needs (see companion report in



Appendix A, interviews with policymakers; Deoudes, 2013). With over 100,000 children in foster care available and awaiting adoptive placement (U.S. DHHS, 2012), the U.S. government has begun to search for homes through ICA. The second group consists of infants whose birth parents relinquish at birth, often through private intercountry placements (Groza, 2010). These children typically are African American or biracial (Groza, 2010; Selman, 2012). In a small qualitative study of adoption professionals in the U.S. and Canada, the push of racial discrimination in the U.S. and the pull of more perceived racial harmony in Canada were identified as two factors influencing this trend. In 2012, the U.S. Department of State reported 99 outgoing placements to Austria, Canada, Ireland, Mexico, Netherlands, Switzerland and the U.K. from 17 different states (U.S. DOS, 2013). However, it is likely that the numbers of children placed in outgoing ICAs are higher (Selman, 2012; 2013d). For a discussion of critical issues related to U.S. outgoing adoptions, see Naughton (2012).

In sum, whether COO or RC, many countries' policies, practices and cultural norms regarding domestic adoption shaped their movement to ICA. These changing national contexts have had fundamental implications for ICA.

### **Care of Unparented Children as a Context<sup>1</sup>**

Although RCs and COOs alike have faced the challenges of addressing unparented children's needs for safe, stable and permanent situations, the challenges faced by COOs have been most relevant for ICA, largely due to their limited resources to meet the needs of these vulnerable children. The issues center on the kind of setting in which to care for children – institutional or family-based care. For decades, institutional care in both RCs and COOs was used as the primary setting for care of children who were not with their parents. As with domestic adoption, each country's experience with institutional care has been unique. Research in the first half of the 20th Century highlighted the problems with depression and attachment and social interactions for institutionalized children (e.g., Bowlby, 1952; Spitz, 1945) and, a number of RCs subsequently shifted away from such care.

In the early 1990s, following the fall of the Ceausescu regime in Romania, the world was captivated by the deplorable conditions for thousands of institutionalized children. In response, many parents in high-resource countries (primarily Canada, the U.K. and the U.S.) adopted children from Romanian institutions – ushering in an era of burgeoning intercountry adoption from institutions across various countries. Renewed scientific interest in the outcomes of children living in institutions, as well as post-institutionalized children, converged with advances in neuropsychological, electrophysiological and other assessments, making it possible to study their brain, hormonal, functioning and development. We briefly summarize this literature; for

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<sup>1</sup> unparented" refers to children who are not currently living in families. These children may or may not have living birth parents, and they may reside in institutions.

extensive discussion of relevant studies, see the Society for Research in Child Development Monograph, *Children without Permanent Parents: Research, Practice and Policy* (McCall, Van IJzendoorn, Juffer, Groark & Groza, 2011).

Based on research, experts have classified institutional care in four categories: globally depriving institutions, which fail to meet children's needs in any domain; psychosocially depriving institutions, which provide adequate health care and nutrition, but fail to meet children's stimulation and relationship needs; institutions that meet children's short-term needs for health care, nutrition and stimulation, but fail to provide long-term, stable relationships; and those that meet children's short- and long-term needs, but in the absence of family-based care (Gunnar, 2001; Van IJzendoorn et al., 2011). Although these settings differentially affect children's development (e.g., Hawk & McCall, 2010; Kreppner et al., 2007; Merz & McCall, 2010), the findings are unequivocal: Institutions of all types generally deliver care that fundamentally delays or alters neurological, hormonal, physical, and emotional development (see the following for comprehensive reviews: van IJzendoorn et al., 2011; Juffer et al., 2011; Johnson & Gunnar, 2011).

The timing, quality of care, and the child's age and genetic make-up, along with many other factors, all can mediate the effects of institutionalization (e.g., Kreppner et al., 2007; Hawk & McCall, 2011). Direct comparisons of children in family-based foster care and institutions show that the former are better off developmentally (McCall, 2011). Although there have been few studies comparing domestic adoption with institutional care in low-resource countries, the extant literature indicates that adoption is the best alternative for promoting optimal development of children who are not with their biological parents (McCall, 2011; Van IJzendoorn & Juffer, 2006).

It is important to recognize that solutions for homeless children, including group care facilities and foster homes, exist on a continuum of quality. There are models of group care that have been developed by private, non-governmental organizations, such as SOS or Watoto, that strive to provide family-based care with a mother and eight or so children living in a home in a village of such homes. For example, SOS operates more than 2,100 such facilities in 133 countries and territories. Such facilities certainly go further in providing emotional and physical nurturance to children than traditional orphanages and, in many cases, than unstable foster care; yet the ideal of a stable family for life is hard to achieve for many.

As more has been learned about the negative effects of institutionalization, researchers have called for policies that promote the placement of children in family-based care, such as by adoption, as early as possible (e.g., McCall, 2011). Thus, the new realities of institutional care and their impact on children's development have shaped increased attention toward early determination of whether children can be safely and responsibly reared in their biological

families; when this is not possible, children should be placed in a family setting that will optimize their development.

### **Changing Technology as Context**

In addition to the scientific changes mentioned above, technological advances have exploded in the past several decades. We include brief mention of these changes because of their impact on adoption practices and communication. When ICA was first initiated, people communicated through the mail and by landline telephones. Radio was making way for television and both focused on local and national news. Copiers, fax machines and computers were not available for another 40-50 years. ICAs take place today in the context of communication processes facilitated by the internet that were unimaginable even 30 years ago. As discussed in detail in the Adoption Institute's "[\*Untangling the Web\*](#)" report, access to "social media, search engines, blogs, chat rooms, webinars, photo-listings and other modern communication tools ... are transforming adoption practices, challenging current laws and policies, offering unprecedented opportunities and resources, and raising critical ethical, legal and procedural issues" (Howard, 2012; p. 2) regarding adoption.

One critical example is that searching for and finding birth relatives has been made much easier, and this practice appears to be rapidly increasing as a result. This development alone has significant implications for adoptions, especially ICA, which many parents in the past have perceived as offering confidential, closed placements, since birth families could not be located (Zhang & Lee, 2012). One of the more concerning uses of the Internet is the "private re-homing" of ICA adoptees (Twohey, 2013), whereby their parents locate strangers to assume custody without professional oversight, guidance or supervision. In identifying this practice, Twohey (2013) noted cases in which children were abused in their "re-homed" situations.

### **Changing International Context**

The international context for ICA has included specific intercountry relationships, as well as collective international views about children's needs and rights. There are a number of international organizations that have been working on behalf of children's rights and needs. Some date back to the late 1800s (e.g., International Circle of Red Cross) or early 1900s (e.g., International Social Services, Save our Children), whereas others are more recent (e.g., Joint Council on International Children's Services, United Nations Children's Emergency Relief Fund). These international organizations may have different stakeholders, but all are committed to improving the lives of children around the globe. Although their common concern is the best interests of children, they may have different perspectives regarding how well ICA meets children's needs.

## The Changing Face of Intercountry Adoption

While adoption itself is centuries old, intercountry adoption (ICA) dates back to the 1940s, just after WWII (Pertman, 2000, 2012; Herman, 2008). Emerging as missions to rescue war-orphans, ICA brought children first from Germany and Japan to the U.S. These “baby-lifts” continued in the 1950s, with orphans from the Korean War, and in the 1970s, with children orphaned in the Vietnam War. In addition to orphans, children fathered by foreign servicemen, particularly girls and boys who were bi-racial, were adopted into permanent families abroad. Because these intercountry adoptions were nearly all of Asian children by White parents, these families were also transracial – and, as such, were created contrary to the reigning ideology of adoption emphasizing invisibility, secrecy, matching and “passing.” From an early emphasis on war orphans and children fathered by GI’s, the general goal of modern ICA has been to provide permanent families for children in need, irrespective of the reason (Gunnar, Bruce & Grotevant, 2000; Van IJzendoorn & Juffer, 2006). In practice, this typically has meant the placement of children out of orphanages or after natural disasters (Doyle, 2010).

One unfortunate development has been the number of documented illegal, unethical and “grey zone” practices (Fuentes, Boéchat, & Northcott, 2012; Mezmur, 2009; 2010; Smolin, 2006). Documented illegal practices include child abduction, sale and trafficking of children (e.g., Rotabi, 2012) and can occur at the individual level or for larger numbers of children (Fuentes et al., 2012, p 43). Recent news accounts point to several situations in which adoptive families thought they had adopted children who were legally available, only to learn years later that the first/birth parents never gave fully informed consent (e.g., Graff, 2011). In some cases, government investigations have identified and held accountable those COO professionals who facilitated such placements (e.g., Graff, 2012). In addition to illegal practices, culturally based confusion about the meaning and purpose of adoption has led to ICAs in which birth parents did not give fully informed consent; a prominent example is the adoption of Marshallese children, in which parents often thought children were going away to be educated and would return when older (Roby & Matsumura, 2002).

### Hague Adoption Convention

Responding to growing international concern about the vulnerabilities of children, biological families and adoptive families, and building on the U.N. Convention on the Rights of the Child, the *Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993* (Hague Adoption Convention, HCIA) was promulgated to provide critical safeguards for all involved. With a focus on the best interests of children, HCIA was designed to help eliminate illegal, irregular, premature or ill-prepared practices, and to increase the likelihood that ICA occurred only after exhausting efforts to provide in-country permanency. The HCIA operates through a system of national Central Authorities, and intends to reinforce the UN Convention on the Rights of the Child (Article 21). HCIA also seeks to prevent the abduction,

sale or trafficking of children. As of 2013, 89 countries had signed and ratified the Hague Convention (Hague Convention on Private International Law, 2013).

HCIA sets forth four general principles that countries should consider when developing legislation, procedures and other measures to implement the treaty. These principles are described in some detail in a companion report on policymakers' views of the HCIA (Deoudes, 2013). We briefly note them here: First, "Ensuring adoptions take place in the best interests of the child and with respect for his or her fundamental rights," which includes the *subsidiarity principle* that "a child should be raised by his or her birth family or extended family whenever possible. If that is not possible or practicable, other forms of permanent family care in the country of origin should be considered. Only after due consideration has been given to national solutions should intercountry adoption be considered." (Hague Conference on Private Law, 2008, p. 29) The consideration of child rights and best interests also includes the verification of adoption eligibility, non-discrimination of adopted children, collection and preservation of information on the child's origins, and matching the child to a suitable family.

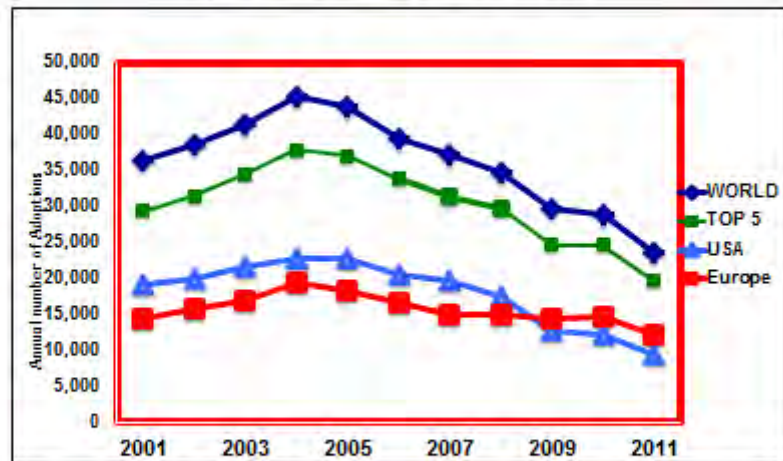
The second general principle of the HCIA concerns the establishment of safeguards to prevent abduction, sale and trafficking of children for adoption, including protecting families of origin, obtaining voluntary informed consent, and preventing improper financial gain. The third principle aims to establish cooperation between States, including between Central Authorities, all public and private agencies regarding procedures, and cooperation between States and Central Authorities. The final principle seeks to ensure authorization of competent authorities, including those who make decisions; to authorize Central Authorities to fulfill obligations and perform functions; and to determine which accredited bodies are allowed to operate as part of the system.

### **Changing Patterns of Intercountry Adoption**

In the years immediately following the promulgation of the HCIA, international adoption became increasingly popular, with numbers of children adopted into RCs peaking at a high of about 45,000 in 2004 (Selman, 2010). Since then, there has been a precipitous drop-off in the number of children adopted internationally. For example, adoptions into the U.S., the receiving country (RC) with the highest numbers of ICA, rose from 15,774 in 1998 to 22,884 in 2004 before dropping to 12,149 in 2010 and to 8,668 in 2012 (Selman, 2012; U.S. Department of State, 2013). Adoptions from China, the country of origin with the highest numbers since 1993, also steadily increased to a peak of 14,493 in 2005 and decreased to 4,418 in 2011 (Selman, 2013a). Similar patterns of ICA were reported for other RCs and COOs. Figures 1.1 and 1.2 illustrate the ICA patterns into receiving countries and out of countries of origin, respectively. While the reasons behind this precipitous decline have not been delineated sufficiently in research (Selman, 2012), there likely are several factors. These include the development in COOs of domestic adoption and the closing of ICA in some nations due to documented abuses

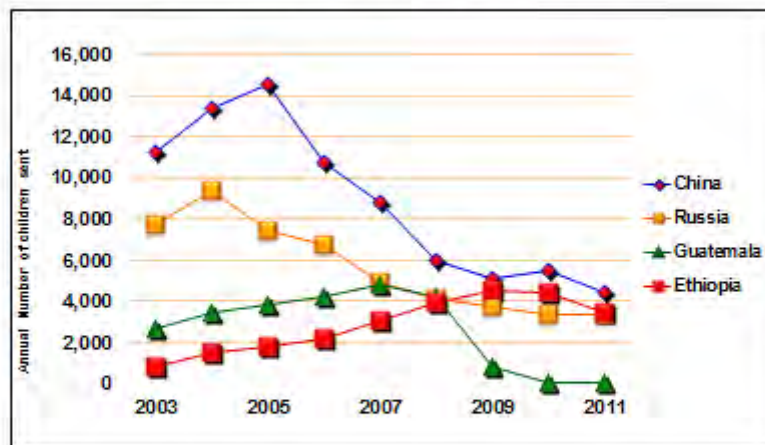
of ethical practice – hereafter referred to as *adoption abuses* (e.g., Vietnam, Guatemala; Fuentes, Boéchat & Northcott, 2012; Selman, 2012).

Figure 1.1: Global Trends of ICA into RCs 2001-2011



Selman, P. (2013b) The Global Decline in Inter-country Adoption 2004-2011, paper presented at Fourth International Conference on Adoption Research (ICAR4), Bilbao, Spain, July 7-11, 2013

Figure 1.2: ICAs from Top Four States of Origin



Selman, P. (2013b) The Global Decline in Inter-country Adoption 2004-2011, paper presented at Fourth International Conference on Adoption Research (ICAR4), Bilbao, Spain, July 7-11, 2013

The development of domestic adoption in some COOs was consistent with the HCIA principle of subsidiarity. The focus of most of these programs has been on children who had been previously considered ideal candidates for ICA – infants, young children and healthy children. As is discussed more extensively in Chapter 3 on ICA of children with special needs, this reality has



led to COOs increasingly making children with special needs the sole or primary population available for ICA (Selman, 2012). One unfortunate consequence of this change is that some families are poorly prepared to provide the support their children require. The new realities associated with the growth in placement of children with special needs further reflect the changing face of ICA.

## **ICA Debate**

Against the backdrop of the profound changes occurring in ICA, an ongoing debate continues about what its essential purpose should be. Facets of this debate include the realities that some children in COOs cannot be with their biological families, the dramatic decrease in ICAs since 2004 (Selman, 2012), documented adoption abuses in certain COOs (e.g., Fuentes, Boéchat & Northcott, 2012), findings on the impact of institutionalization on children's development (e.g., McCall et al, 2011), and the assertion by some that strong demand for adopted children in high-resource countries drives the supply of children from low-resource countries and creates situations in which unethical practices and abuses take place (e.g., Fuentes et al., 2012; Rotabi, 2012; Smolin, 2010). Each perspective cites children's human rights as an underlying framework for its position.

One view is that children have an individual right to be raised in nurturing, safe families, irrespective of the country or culture in which the families reside (Bartholet, 2007; Carrozza, 2003, as cited in Bartholet & Smolin, 2012, p. 234). Proponents of this view believe that ICA should be used to facilitate rapid placement of children in families first, somewhere. An alternative view cites the interdependency between children and their socializing communities as a human right and argues that children have a right to be cared for in their biological families and communities (e.g., Smolin, 2010). Thus, for proponents of this perspective, ICA should be considered only as a last resort, especially in light of the abuses that have victimized adoptees and birth families. This debate is clearly represented by the contrasting views of Bartholet and Smolin (2012). For additional perspectives, readers can turn to other sources to better understand the details/complexities in the debate (e.g., Barrozo, 2011; Carrozza, 2003; Davies, 2011; Fronek & Cuthbert, 2012; Fuentes, Boéchat & Northcott, 2012; Roby, 2007; Young, 2012). We briefly mention this debate here because it also serves as an important context for understanding the complexities of ICA.

In sum, intercountry adoption has undergone dramatic, transformative changes and has become more complex in many ways in the 20 years since the promulgation of HCIA.

## The Current Study

In light of the changing contexts of ICA and the notable changes since the HCIA was promulgated, it is important to understand how those directly involved view current practices and developments. Countries submit annual reports to The Hague with details about incoming and/or outgoing adoptions (for example, U.S. Department of State, 2012); there are few if any studies, however, of the intercountry adoption process itself – either from the perspective of adoption professionals or adoptive parents. Recognizing the importance of what we term “voices from the field” to inform our understanding, we developed two large-scale surveys. One was designed for parents adopting internationally since 1983 (10 years before the HCIA was promulgated), and the other for ICA adoption professionals. In tandem, 19 interviews with senior policymakers in both countries of origin and receiving countries were also conducted. The findings and recommendations based on these interviews are reported in the companion report, “Policymakers Report: A Changing World (Deoudes, 2013). Both the surveys and interviews were designed to assess the current landscape, with the intent of shedding light on HCIA’s impact and implementation. Other goals of the surveys included assessing the experiences “on the ground” of both adoptive parents and professionals.

Thus, the goals of this study were to:

1. Identify the critical issues impacting intercountry adoption practice and propose solutions.
2. Assess professionals’ and adoptive parents’ perceptions of the impact of the Hague Adoption Convention on the practice of intercountry adoption.
3. Construct and propose recommendations for improving intercountry adoption policy and practice.

The presentation of our findings will address three primary areas: issues related to special needs adoptions; birth parent contact in intercountry adoptions; and the impact of the HCIA.

## II. METHODOLOGY

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### Participants and Procedures

#### Parent Participants

We solicited the participation of any parent who adopted a child from another country between 1983 and the present to complete a web-based survey. We included parents who were in the process of adopting in those questions that were relevant for them. Potential participants were recruited through various methods, such as online adoption groups and email lists. We also sent information about the survey to adoption agencies and professionals with requests to forward the inquiry to adoptive families. In addition, information about the survey was posted on the Adoption Institute website. Some participants were recruited through snowball sampling; that is, by asking survey respondents to forward the information to other possible participants.

The survey has been accessible since August 2012. Although it is still available for parents to complete, we used July 1, 2013, as the date for examining the responses for this report. The survey was designed to be completed anonymously. We sought a participation rate of at least 500 parents who adopted from at least seven countries.

Once parents went to the website and gave consent to participate (n=1211), they were asked if they had initiated or finalized an ICA. This served as a gateway question, enabling us to ensure that only those parents who responded that they were involved in an ICA participated in the survey. Parents who had initiated an ICA, or who had completed at least one ICA, were allowed to move through the survey. Parents who reported that they had not initiated or completed an ICA were not allowed to move through the survey (29 parents; in addition, 30 parents did not answer this question, apparently deciding not to take the survey). This resulted in a parent sample of 1152.

Of these parents, 1,034 finished the survey, a completion rate of 90%. Of the parents starting the survey, 57 percent finalized one ICA and 38 percent had multiple ICAs (4% not yet finalized). Most parents (70%) adopted in the last decade, while 24 percent adopted between 1993-2003 and 4 percent before 1993. Parents from 22 RCs adopted children from 51 COOs. The top five COOs were China (27%), Ethiopia (16%), Guatemala (16%), Russia, (13%) and Colombia (6%). The overwhelming majority of parents in this sample lived in the U.S. (92%). Other RCs represented by multiple-parent respondents included Ireland, Canada, the UK, Australia, Germany, Italy and China. Parents were almost all heterosexual (97%) and primarily married (79%). Table 2.1 below provides an alphabetical list of all represented countries in the parent survey.

**Table 2.1: Represented Countries in the Adoptive Parent Sample**

<b>COOs</b>	<b>RCs</b>
Belarus	Australia
Bolivia	Canada
Brazil	China
Bulgaria	Ethiopia
Cambodia	Germany
Chile	Ireland
China	Italy
Colombia	Kenya
Democratic Republic of Congo	Korea
Dominican Republic	North Korea
El Salvador	Romania
Estonia	Spain
Ethiopia	Switzerland
Georgia	Thailand
Ghana	United Arab Emirates
Greece	United Kingdom
Guatemala	Uruguay
Haiti	USA
Honduras	Vanuatu
Hong Kong	Vietnam
India	
Indonesia	
Kazakhstan	
Korea	
Lesotho	
Liberia	
Lithuania	
Mali	
Mexico	
Moldova	
Morocco	
Nepal	
Nicaragua	
Nigeria	
Paraguay	
Peru	
Philippines	
Poland	

Romania	
Russia	
Slovakia	
South Africa	
Sri Lanka	
Taiwan	
Tanzania	
Thailand	
Uganda	
Ukraine	
Vietnam	
Zambia	

### Professional Participants

We recruited a variety of professionals regarding adoption, including placement professionals, adoption supervisors, independent professionals engaged in adoption activities (e.g., lawyer, independent consultant), policymakers, post-placement professionals, agency directors, adoption researchers, general child welfare/protection workers, volunteers, interpreters/guides/drivers, therapists and others providing services to ICA families and adoption intermediaries. Potential participants were recruited through various methods, including professional organizations, advocacy organizations, and the Donaldson Adoption Institute listserv. In addition, we sent information to national and international associations with requests to forward to their constituencies, and participants were recruited through snowball sampling.

The survey has been accessible since August 2012. Although it is still available for professionals to complete, we used July 1, 2013, as the date for examining the responses for this report. The survey was designed to be completed anonymously. We sought a participation rate of at least 200 professionals working in at least 15 countries.

Once professionals went to the website and gave their consent (n=268), the gateway question they answered was which country they primarily worked in. Professionals who did not identify a primary country in which they worked were not allowed to complete the survey (64 professionals). This resulted in a sample of 204 professionals who participated in some way.

Of the 204 participating professionals, 95 finished the maximum of 118 questions, a completion rate of 47 percent. Of those who started the survey, 204 identified the country in which they worked: 55 were from 16 COOs, 9 of which were Hague-signatory countries. The COO professionals primarily represented China (25%) and Ethiopia (25%); other countries included the Philippines, Haiti, Colombia, Hungary, India, Russia, Bulgaria, Thailand, Korea, Poland,

Vietnam, Albania, Peru, Liberia and Guatemala. Eight RCs were represented among the RC professionals (n=149). Among this group, the U.S. was overwhelmingly represented (83% of RC professionals, 60% of the entire sample); other countries included Ireland (6%), Australia and Canada (each 4%), Germany (2%), Netherlands and the UK. (See Table 2.2 for a list of all participating countries in the professional sample.)

The professionals' work settings varied: 66 percent worked for an accredited adoption service provider (ASP), 14 percent as independent professionals, 8 percent for the government; 7 percent for an unaccredited ASP; 7 percent other settings; and 3 percent for a private, for-profit ASP. Specific roles included direct service staff person (66%), agency director (22%), adoption researcher (9%), independent adoption professional (8%), policymaker or general child service provider (4% each), and 11 percent other. Professionals overwhelmingly worked with adoptive parents (82% pre-placement and 81% post-placement), while 43 percent worked to prepare children for placement. Almost two-thirds (64%) worked in adoption for more than 10 years.

**Table 2.2: Participating Countries and HCIA-signatory Status**

<b>Adoption Professional Survey Participants</b>		
<b>Receiving Countries</b>	<b>Country</b>	<b>HCIA-signatory Status</b>
	Australia	HCIA-signatory
	Canada	HCIA-signatory
	Germany	HCIA-signatory
	Ireland	HCIA-signatory
	Netherlands	HCIA-signatory
	United Kingdom	HCIA-signatory
	United States	HCIA-signatory
<b>Countries of Origin</b>		
	Albania	HCIA-signatory
	Bulgaria	HCIA-signatory
	China	HCIA-signatory
	Colombia	HCIA-signatory
	Ethiopia	Non-HCIA-signatory
	Guatemala	Non-HCIA-signatory***
	Haiti	Non-HCIA-signatory
	Hungary	HCIA-signatory
	India	HCIA-signatory
	Korea	Non-HCIA-signatory*
	Liberia	Non-HCIA-signatory



	Peru	HCIA-signatory
	Philippines	HCIA-signatory
	Poland	HCIA-signatory
	Russia	Non-HCIA-signatory*
	Thailand	HCIA-signatory
	Vietnam	Non-HCIA-signatory**

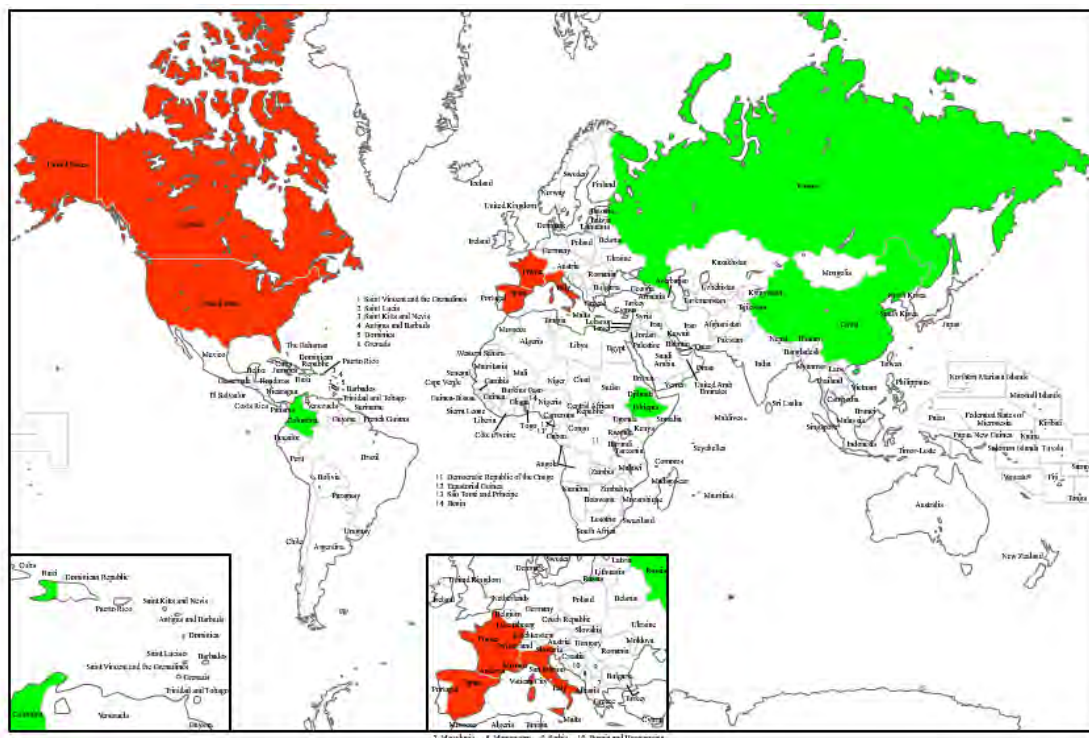
\* Country has signed the HCIA, but not ratified nor entered into force.

\*\* Country has signed the HCIA, but the entry into force date was too late to be considered HCIA-signatory for the purposes of this report (Cut off EIF date: Dec 31, 2010)

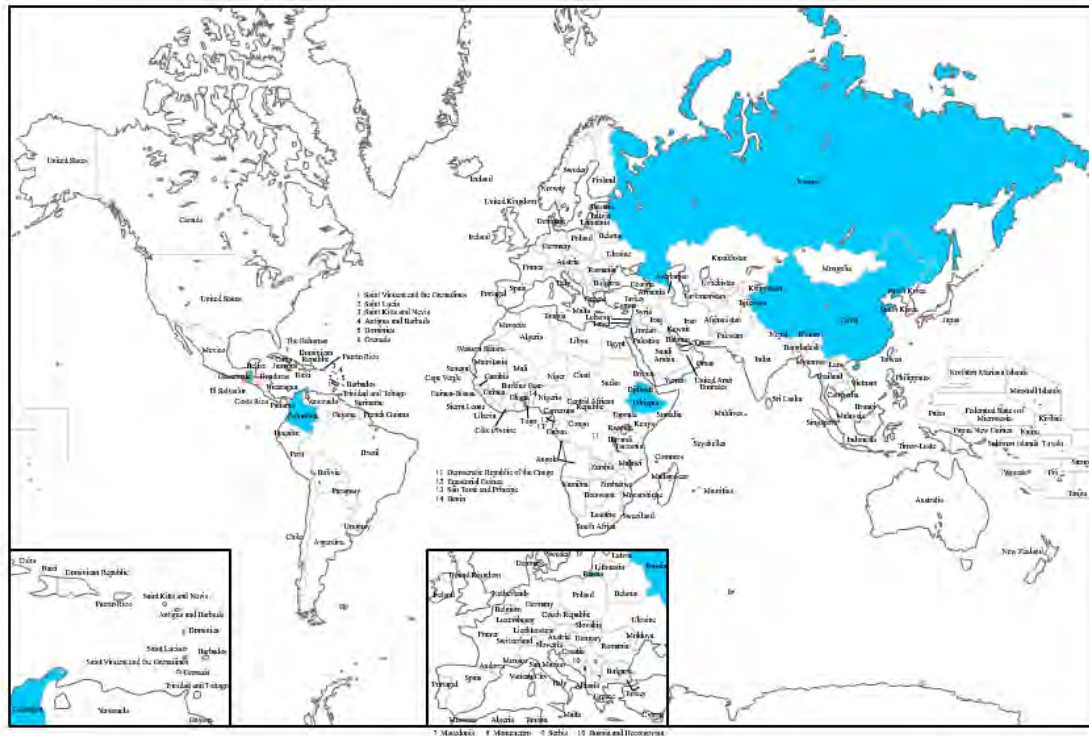
\*\*\*Country has signed the HCIA, but has not entered into force; and accession has been objected  
Countries are listed alphabetically.

Across parent participants, the top five countries of origin in our sample closely overlap the top five countries of origin in 2010. Figures 2.1 and 2.2 located below, illustrate the top five RCs and COOs in 2010 and the top five COOs in our sample, respectively.

**Figure 2.1: Top Five Receiving States and Top Five Countries of Origin in 2010**



**Figure 2.2: Top Five Countries of Origin in Our Adoptive Parent Sample**



It is important to note that although we met our goal of recruiting professionals from a range of countries, the RC sample is heavily from the U.S. Similarly, although parents in our sample are from 22 RCs, the majority are from the U.S. As a result, the findings that we report tend to represent mainly the perspectives of U.S. participants.

## Surveys

We constructed separate surveys for parents and professionals. Each survey was constructed to assess as comprehensively as possible the respective experience each type of participant had. Each survey contained a mix of question structures; some were forced multiple choice, some were choose all that apply, and some were open-ended.

### Parent Survey

The parent survey can be found at the link below, and is still available for completion by adoptive parents.<sup>2</sup> Here we summarize the type of information about which we constructed questions – parents’ demographic information, their familiarity with the HCIA, aspects related to their decision to adopt and from where, experiences that might be affected by HCIA implementation (for example, how much time were they given to review children’s records, or

<sup>2</sup> [https://tufts.qualtrics.com/SE/?SID=SV\\_0JOrVXtfy4zox6c](https://tufts.qualtrics.com/SE/?SID=SV_0JOrVXtfy4zox6c)

what kind of information was specified in their adoption contract), children's special needs, if any, concerns about adoption abuses, post-placement services, challenging and most helpful parts of the adoption process, connections to their children's COO and differences among multiple ICAs, if they had more than one. A total of 108 questions were developed, with questions clustered according to topic. Many of the multiple choice or "choose all that apply" questions provided text boxes for "other" answers or for additional explanations. In all, 35 questions offered some opportunity for parents to share their own responses. Of the 108 questions that we constructed, 40 were designed for only parents who had completed their ICA (excluding parents currently in the process of an ICA), and 6 additional were designed for parents with multiple ICAs. In addition, there were a number of follow-up questions that parents received when they gave certain answers.

We piloted the parent survey with adoptive parents and professionals (and, in some cases with individuals who were adoptees, adoptive parents and professionals), as well as members of the Donaldson Adoption Institute Senior Fellows. Based on their comments, we revised the questions, and their sequence. Because we estimated that the survey would take about 45 minutes and we were aware that parents might not spend more than 15-20 minutes on an online survey, we reorganized these questions into three sections, with the most important questions in the first section.

### **Professionals' Survey**

The professional survey also may be found at the link below.<sup>3</sup> A total of 118 questions were developed, with questions clustered by COO and/or RC and by topic. Questions had different structures; some were forced-multiple choice, some were choose all that apply, and some were open-ended. Some of the multiple choice or choose all that apply questions provided text boxes for "other" answers or for additional explanations.

In addition to questions addressing their roles and settings in which they worked, common questions asked of professionals in COOs and RCs included open-ended questions about how HCIA implementation has affected adoption practices (primary benefits, problems created by HCIA implementation; changes in processes), working with professionals from COOs, ICAs with non-HCIA-signatories, assessing collaborators' credibility, open ICAs and criteria for PAPs. The questions for professionals in COOs addressed their practices and policies regarding maintaining children in their biological families, domestic options available when children cannot remain in their biological families, assessing and confirming children's eligibility for

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<sup>3</sup>[https://tufts.qualtrics.com/SE/?SID=SV\\_6fHw15W22f2sGPi](https://tufts.qualtrics.com/SE/?SID=SV_6fHw15W22f2sGPi)

adoption (domestic and ICA), children with special needs, matching families to children, and ensuring safe and permanent placements.

Questions specifically for professionals in RCs included procedures for verification of children's legal availability for ICA, any additional verification steps for children from non-HCIA-signatory countries, any role in helping BPs decide to relinquish children, pre-placement training offered to parents, procedures regarding failed placements, post-placement services provided to and needed by families, knowledge of independent and private adoptions, experiences of stigma in RC, and post-placement reports of children's and families' functioning. The specific number of questions answered by professionals from COOs and RCs varied, as some received follow-up questions depending on their responses.

As with the parent survey, we piloted the professional survey with professionals in various roles, including placement professionals, advocates, researchers, policy makers, as well as members of the Adoption Institute Senior Fellows. Based on their comments, we revised the questions and their sequence and added new ones. Because we estimated the online survey would take about 45 minutes and we were aware that professionals might not spend more than 15-20 minutes, we reorganized these questions into three sections, with the most important questions in the first section.

## Data Analysis

We conducted descriptive analyses (means/averages, percentages) of parents' and professionals' data. These analyses constitute the bulk of the findings reported here. In addition, we conducted comparison analyses (typically cross-tabulations) of responses from professionals in COOs and RCs, and from professionals in HCIA-signatory COOs and non-HCIA-signatory COOs. Open-ended responses also were analyzed: We categorized written responses to open-ended questions into themes and sub-themes and calculated their frequencies.

## III. SPECIAL NEEDS ADOPTION

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Until the mid-1900s, U.S. domestic adoptions of children with identified special needs were rare, as professionals considered them at great risk for failure (Herman, 2008). Children referred to as "special needs" or "hard-to-place" were usually African-American, of racially or ethnically mixed heritage, older, part of a sibling group, or had physical or mental disabilities (Herman, 2012). It was not until after the Second World War that U.S. adoption agencies began testing these alternative placements that challenged the long-standing emphasis on matching, and formation of "invisible" adoptive families. This shift in adoption policy was largely due to the insistence of parent advocates who believed children of

all backgrounds and abilities deserved families (Herman, 2008; 2012) and would benefit from being raised within them. Led by notable individuals such as Pearl S. Buck (Pulitzer and Nobel laureate), adoption advocates successfully challenged traditional practice, making it possible to find families for children other than healthy, White infants. In 1980, U.S. federal law (P.L. 96-272) provided incentives for adopting children with these characteristics, with the goal of moving them from foster care to permanency. U.S. federal law provided guidelines regarding definitions of special needs, and child welfare systems within each state set specific definitions. By the 1960s, many U.S. states had adoption resource exchanges designed to assist in special needs placements.

As in early U.S. adoption history, children with identified special needs in many countries were considered “unadoptable,” either domestically or internationally (O’Halloran, 2006). A common perception among COOs has been that “foreigners only want to adopt young and healthy children” (Fuentes, Boéchat & Northcott, 2012, p. 29). However, as some COOs have chosen to promote domestic adoption for younger children and those without significant health or mental health issues, they have increased the number of ICAs of children with identified special needs. For example, Chile (a HCIA-signatory) does not make children under age 2 available for ICA; furthermore, priority is given to Chilean relatives of available children, then to Chilean adopting couples. Only children not adopted by Chileans are made available for ICA, which has resulted in 100 percent of children adopted from Chile having identified special needs since 2005 (Hague Conference on Private International Law, 2011). These children typically are over age 6, members of sibling groups and/or have developmental or medical issues (New South Wales Government, Family & Community Services, 2012).

Many countries that place children internationally have developed specialized adoption “tracks” for those with identified special needs. For example, the China Center of Adoption Affairs, that country’s centralized authority, established Waiting Child programs in order to find ICA families for children with identified special needs. These identified special needs range from mild conditions easily corrected by surgery to more-complicated conditions requiring ongoing treatment. As a result of these various factors, the absolute number of children and the overall percentage of ICA of children with identified special needs have increased. The Hague Special Bureau has also begun collecting information from signatory countries on the numbers of children with identified special needs being placed in their annual reports to The Hague.

### Special Needs in this Study

The current study collected data from two sources on special needs adoption. Information on special needs intercountry adoption was collected in both the adoptive parent and professional surveys. We present data from parents of international adoptees with special needs, first in the aggregate and then including some country-specific data. We then briefly present information collected from adoption professionals on such adoptions.



## Parents of International Adoptees with Special Needs

Parents of international adoptees indicated whether their most recently adopted child has or had special needs. In our sample of 1,034 parents, 47 percent adopted such a child (486 cases) either diagnosed in the COO or the adoptive country. Parents also were asked questions about their child's pre-placement care, medical records, and post-placement services needed and used.

Parents were asked if their children were diagnosed by professionals as having special needs. They were then asked to indicate what general category of need their child had been diagnosed with. Parents selected the general category of their child's SN from the five provided: physical or medical need, growth delay, mental or emotional need, other developmental delay or "other." Physical or medical needs included issues such as cleft palate, hydrocephaly, Hepatitis infection or cystic fibrosis, among others. Growth delays included small head circumference, short stature or malnutrition-related delays. Mental and emotional difficulties included attachment disorder, ADHD and other problems. Developmental delays included learning disabilities, speech delays or impediments or delays in other developmental milestones. We recognize that some parents may have been prepared for developmental and growth delays in their adopted children, and might not therefore, indicate these as special needs. However, other parents may have adopted a child without expecting developmental or growth delays and would then have been "surprised" by the appearance of these difficulties. This may have affected the parents' reporting in these two categories. Parents also could indicate a SN not covered by the four categories by designating "other." Parents indicated all categories that applied. We identified three patterns regarding SN during the adoption process; Table 3.1, found below, presents statistics for each.

**Table 3.1: SN by Diagnosis-Timing Group**

	<b>Initial Diagnosis: Classified as SN by Birth Country</b>	<b>Late Diagnosis: Discovered SN at Home</b>	<b>Additional SN Dx* at Home</b>	<b>Total**</b>
<b>Total Number of Special Needs Adoptees</b>	243 (50% <sup>a</sup> )	243 (50% <sup>a</sup> )	101 (42% <sup>b</sup> )	486

\* These children were diagnosed with SN in birth-country and had an additional SN diagnosis after-adoption. They also were included in the numbers of children initially diagnosed in the COO.

<sup>a</sup> This is the percentage of SN children.

<sup>b</sup> This is the percentage of Initially Diagnosed children.

\*\*Sum of Initial diagnosis and Late Diagnosis groups.



**Initial diagnosis.** This first pattern included families whose children were diagnosed with a SN in their birth countries. Parents of 243 children (24% of the total sample and 50% of the SN sample) fell into this category. The majority of these children (64%, n=158) had medical or physical issues. The next-most-common category was developmental delays (32%, n=77).

**Late diagnosis.** This second pattern included families who adopted children with no special need identification in the COO, but later were diagnosed in the RC. Parents of 243 children (24% of the total sample and 50% of SN sample) were in this category. These SNs included those immediately apparent to the families and those that became apparent during children's development. Nearly 70 percent (n=164) of these children who were diagnosed in their adoptive countries had a mental or emotional diagnosis; 52 percent (n=124) of these had developmental delays. Because parents were asked to indicate all categories of SN that applied, there is a group of children with both mental or emotional special needs and developmental delays. Additionally, 16 percent (n=39) of parents indicated their child had a growth delay. We did not ask parents to specify exactly when their child was diagnosed with each special need; however, they did indicate whether or not their child's SN was immediately apparent to them or whether it became clear as their child developed.

**Additional diagnosis.** This final pattern included families with children diagnosed as having a SN in their COO, and after placement were identified with an additional one. Parents of 101 children (10% of the total sample) fell into this category. This group represented nearly half (42%) of families who adopted children diagnosed in their COO. Over half (53%, n=54) of children with an additional diagnosis had a mental or emotional need, and 50 percent (n=51) had a developmental delay. Again, these categories are not mutually exclusive and thus indicate that many children have multiple disabilities. For 36 percent (n=37) of parents, their children's additional SN was immediately apparent, whereas 64 percent (n=65) discovered it later. These findings suggest SN diagnosis in the COO is insufficient in nearly 40 percent of cases.

Aggregating the late and additional diagnosis groups, 71 percent of all parents raising an adoptee with SN discovered it after placement, whether the SN was immediately apparent or emerged during development. Thus, this diagnosis after placement is a frequent occurrence whether or not the parents had planned to adopt a child with SN.

### **Pattern of Treatment for Children with Special Needs**

We conducted preliminary comparisons among families adopting children with an initial diagnosis (in COO), with a late diagnosis (in RC), and with an additional diagnosis (in COO and then RC). Where notable differences emerged, findings are reported for each group; otherwise, results are aggregated.

**General pre-placement care.** Parents reported on the quality of care their children received before adoption, indicating which areas were inadequate. They were most concerned about

inadequacies in feeding and nutrition, then about adult caring and nurturing, and third about medical attention. However, their concerns differed a bit by the timing of diagnosis. Feeding and nutrition inadequacies were paramount for parents of children with initial diagnoses (77%, n=121 of these parents). Parents of late-diagnosed children were most worried about adult caring and nurturing (85%, n=135 of parents). Other statistics on pre-placement care concerns are presented in Table 3.2 below. We did not ask parents how they came to be concerned about their child's pre-placement care, or what evidence supported these concerns. Reasons for concern may include actual observation of their child's pre-placement circumstances when visiting an orphanage or institution, information from their child's records or the adoption agency, or these concerns may have developed through other means, such as chat room information about the quality of care at the specific location, or simply general concerns about pre-placement care in other countries. We also recognize that these concerns may be retrospective, with parents indicating that certain areas may (or must) have been inadequate due to post-placement problems or issues their adoptive child had experienced or exhibited.

**Table 3.2: Areas of Insufficient/Inadequate Care in SN Sample**

		<b>Initial Diagnosis: Classified as SN by Birth Country</b>	<b>Late Diagnosis: Discovered SN at Home</b>	<b>Additional SN Dx* at Home</b>	<b>Total Cases</b>
<b>Pre-Placement Care Inadequacy: (Parents could check all that apply)</b>	Medical care	97 (61%)	110 (70%)	55 (69%)	<b>262</b>
	Adult caring or nurturing	102 (65%)	135 (85%)	57 (71%)	<b>294</b>
	Social interaction with other children	61 (39%)	61 (39%)	38 (48%)	<b>160</b>
	Feeding and nutrition	121 (77%)	127 (80%)	59 (74%)	<b>307</b>
	Education	79 (50%)	68 (43%)	44 (55%)	<b>191</b>
	<b>Total Respondents</b>	<b>158</b>	<b>158</b>	<b>80</b>	<b>1214</b>

\* These children were diagnosed with SN in birth-country and had an additional SN diagnosis after-adoption. They also were included in the numbers of children initially diagnosed in the COO.

Note: percentages are of column totals.

## Medical Records

The HCIA requires that RCs provide parents with children's records and allow time for review and decision-making about whether to adopt. For parents adopting a child into the U.S. from an HCIA-signatory country, this requirement is two weeks. Parents were asked about the accuracy and completeness of their children's medical records, and when there were discrepancies, why they might have occurred. Differences between diagnoses groups (i.e. Initial, Late Discovery

and Additional) were evident in two areas. First, inaccurate records were a problem for 75 percent (n=77) of additional-diagnosis families, whereas 52 percent (n=121) of initial-diagnosis families and 61 percent (n=146) of late-diagnoses families reported such problems. Second, 52 percent (n=53) of additional-diagnosis families identified missing, extra or more severe problems, compared to 39 percent (n=95) of late-diagnosed and 34 percent (n=80) of initial-diagnosed families, respectively. Across all groups, approximately 16 percent (n=38) of families reported missing or incomplete information, and in a few cases (6%, n=6), parents never received medical records.

As can be seen in Table 3.3, when asked about reasons for the discrepancies, 50 percent (n=121) of all parents of children with SN believed the COO's medical care was inadequate to properly maintain records. Examples included not having appropriate equipment or professionals to diagnose or treat health issues, or not being able to afford treatment by the appropriate professionals in-country. The second-most-frequent reason (32%, n=77) was professional inaccuracy in the COO. These parents believed medical and/or adoption professionals in the COO were intentionally or mistakenly inaccurate in their reporting.

**Table 3.3: Parents of SN Adoptees on Medical Records**

		<b>Classified as SN by Birth Country</b>	<b>Discovered SN at Home</b>	<b>Additional SN Dx at Home</b>	<b>Total Children</b>
<b>Discrepancies Between Child's Health and Medical Records</b>	<b>Records were accurate</b>	113 (48%)	95 (39%)	25 (25%)	<b>233</b>
	<b>Incomplete/missing information</b>	34 (15%)	38 (16%)	17 (17%)	<b>89</b>
	<b>Missing, Extra or More Severe Problem</b>	80 (34%)	95 (39%)	53 (52%)	<b>228</b>
	<b>Never got medical records</b>	7 (3%)	13 (5%)	6 (6%)	<b>26</b>
	Total Number of Respondents	<b>234</b>	<b>241</b>	<b>101</b>	<b>576</b>
<b>Reason for Discrepancy in Medical Records</b>	<b>Inaccurate in their disclosure</b>	26 (31%)	37 (36%)	14 (25%)	<b>77</b>
	<b>Inadequate medical services</b>	46 (54%)	44 (43%)	31 (56%)	<b>121</b>
	<b>Couldn't diagnose earlier</b>	13 (15%)	21 (21%)	10 (18%)	<b>44</b>
	Total Number of Respondents	<b>85</b>	<b>102</b>	<b>55</b>	<b>242</b>

Note: percentages are of column totals.

## Treatment of SN in Country

Table 3.4 presents data on the timing of treatment for special needs. Across all three diagnosis patterns, only 20 percent of affected children received treatment in their birth countries. (We recognize that some problems would not have been treatable in the COO because they developed over time after the adoption. We also recognize that these findings are based on the parents' perceptions and some SN may have been treated in the COO but the treatment may not have been properly documented.) Of children initially diagnosed, 77 percent (n=99) first received treatment in their COO, while only 23 percent (n=30) were first treated in the RC. Nearly 30 percent (n=33) of parents reported that these children no longer have the diagnosed special need after treatment. This finding suggests that medical care/treatment in COOs may have been insufficient. This is a striking finding, and we would like to acknowledge that the question was posed very specifically to ask about the needs originally identified by the COO and then treated. Parents were asked to report on the specific need identified by a professional, whether their child received treatment for that specific identified need, where the treatment first occurred and whether or not that specific special need persists or whether their child no longer has the specific need. This may mean that, for example, the specific identified need was a cleft palate, which was successfully treated either in the COO or in the adoptive country, and that the child no longer has the cleft palate. This does not necessarily indicate these children no longer have any SN or that there would not be any other lingering, related effects of the original need that was treated.

**Table 3.4: Treatment of SN**

		<b>Classified as SN by Birth Country</b>	<b>Discovered SN at Home</b>	<b>Additional SN Dx at Home</b>	<b>Total Cases</b>
<b>Child Received Treatment</b>	<b>Yes</b>	154 (75%)	231 (96%)	86 (87%)	<b>471</b>
	<b>No</b>	51 (25%)	9 (4%)	13 (13%)	<b>73</b>
	Total Number of Respondents	<b>205</b>	<b>240</b>	<b>99</b>	<b>544</b>
<b>Location of First Treatment</b>	<b>In birth country</b>	<b>99 (77%)</b>			<b>99</b>
	<b>In home country</b>	30 (23%)			<b>30</b>
	Total Number of Respondents	<b>129</b>			<b>129</b>
<b>Continued Treatment</b>	<b>Treatment is ongoing</b>	89 (75%)	179 (82%)	78 (94%)	<b>346</b>
	<b>Treatment is completed</b>	30 (25%)	39 (18%)	5 (6%)	<b>74</b>

	Total Number of Respondents	<b>119</b>	<b>218</b>	<b>83</b>	<b>420</b>
<b>Persistence of Special Need</b>	<b>Special need persists</b>	82 (71%)	174 (88%)	73 (97%)	<b>329</b>
	<b>No longer has the special need</b>	33 (29%)	24 (12%)	2 (3%)	<b>59</b>
	Total Number of Respondents	<b>115</b>	<b>198</b>	<b>75</b>	<b>388</b>

Note: percentages are of column totals.

### Post-placement Services for Families with Children with Special Needs

Parents reported about the comprehensiveness of post-placement services, as well as their sufficiency to meet the family's needs. Table 3.5 presents the families' experiences with post-placement services by diagnosis group. Although such services were widely available (87% received them), many families reported needing supplementary assistance: 43 percent (n=102) of initial-diagnosis families, and 61 percent (n=144) of late- and 59 percent (n=60) of additional-diagnosis families needed more services. Families often found they had to find the additional services themselves; referrals or agency-based services were not provided. This was the reality for 57 percent (n=169) of the sample. This difficulty in accessing and being referred to services indicates that adoptive families may not be getting the support necessary from their adoption agencies, as well as pediatricians and other medical professionals generally responsible for facilitating referrals for care. Generally, parents' efforts were successful, as over 74 percent of families eventually obtained needed services.

When families could not access needed services, the most common reason was an inability to locate them. Less frequent reasons included: insufficient funds or insurance coverage, and not being able to find the required services in their area.

**Table 3.5: Post-Placement Services in SN Sample**

		<b>Classified as SN by Birth Country</b>	<b>Discovered SN at Home</b>	<b>Additional SN Dx at Home</b>	<b>Total Children</b>
<b>Post-Placement Services (PPS) Provided With Adoption</b>	<b>All PPS provided as part of our adoption</b>	19 (20%)	17 (12%)	7 (12%)	<b>43</b>
	<b>Some provided or referred out</b>	28 (29%)	40 (28%)	19 (32%)	<b>87</b>
	<b>Had to seek them out ourselves</b>	50 (52%)	86 (60%)	33 (56%)	<b>169 (57%)</b>
	Total Number of Respondents	<b>97</b>	<b>143</b>	<b>59</b>	<b>299</b>
<b>Ability to Access Services Needed</b>	<b>Yes</b>	47 (75%)	77 (73%)	29 (69%)	<b>153</b>
	<b>No</b>	16 (25%)	28 (27%)	13 (31%)	<b>57</b>
	Total Number of Respondents	<b>63</b>	<b>105</b>	<b>42</b>	<b>210</b>
<b>Ability to Access Add'l Services Needed</b>	<b>Yes</b>	13 (87%)	16 (76%)	8 (80%)	<b>37</b>
	<b>No</b>	2 (13%)	5 (14%)	2 (20%)	<b>9</b>
	Total Number of Respondents	<b>15</b>	<b>21</b>	<b>10</b>	<b>46</b>
<b>Inability to Access Services (Parents could check all that apply)</b>	<b>No coverage or could not afford</b>	11 (61%)	14 (42%)	8 (53%)	<b>33</b>
	<b>The services were not available in our area</b>	9 (50%)	16 (48%)	8 (53%)	<b>33</b>
	<b>Couldn't find services</b>	11 (61%)	17 (51%)	8 (53%)	<b>36</b>
	Total Number of Respondents	<b>18</b>	<b>33</b>	<b>15</b>	<b>102</b>

Note: percentages are of column totals.

Findings from this and other studies (e.g., Smith, 2010) consistently show that access to post-placement services is one of the most challenging issues for adoptive families raising children with special needs. For example, one parent reported,

*Most of the adoption professionals in our area are not trained to recognize infant attachment challenges and trauma. We went to our first of many adoption counselors/therapists within three weeks of coming home and although our daughter was showing signs of Reactive Attachment Disorder<sup>4</sup>, the therapist totally missed those signs. It took us three years to finally find help and we found it in a neighboring state so we had to travel 800 miles bi-weekly to get our daughter (and family) the help she needed.*

While not a typical case, this parent's comment brings to life considerable research indicating adoptive families can experience a serious lack of access to needed services, either because professionals in their area are not properly trained, or trained professionals are not available to families. These issues also point to gaps in care down the line for adoptive families. There are a number of professionals who should be involved in the lives of children, whether or not they were adopted, usually starting with pediatricians. Adoptive families' difficulties indicate that the care initially provided by their pediatricians and social workers (or other adoption professionals) is not comprehensive enough to support all of the families' needs in some cases.

### **Country-Specific Information on Special Needs Adoptions**

Because parents of international adoptees indicated where their most recent adoption was from, we were able to look at SN adoptions internationally by country of origin. In this report, we will discuss four countries of origin with regard to such adoptions. We chose these countries because they are the top four COOs for children with special needs in our sample and have distinct patterns regarding children with special needs.

**China.** China has a large and well-established special needs adoption program. Chinese adoptees also represented the largest absolute number of those with special needs in our sample. In our sample, there were 271 children adopted from China; of these, 142 (52%) have or had special needs.

The largest group of Initial Diagnosis adoptees came from China – 105 children. Table 3.6 displayed below shows the statistics for SN children adopted from China. These 105 initially diagnosed children represented 39 percent of the Chinese adoptees, and 74 percent of the SN children adopted from China. The most common special need identified in the Initial Diagnosis Chinese group was a physical or medical need.

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<sup>4</sup> Reactive Attachment Disorder, typically refers to the failure for a child to establish healthy bonds with a caregiver, which is manifested either through indiscriminate seeking of adult comfort or failure to respond to comforting (Zeanah et al., 2004).

There were also families adopting from China who discovered their child had a special need after moving to their new home. There were 37 children in this Late Discovery diagnosis group; i.e., they were not diagnosed in China, but in their adoptive country. These 37 cases represented 26 percent of all children with special needs adopted from China. These children were most often diagnosed with a developmental delay.

Finally, there was also a group of Additional Diagnosis adoptees from China. Forty-five children who were initially diagnosed in China were found to have another special need once in their adoptive country. These 45 children represented 32 percent of all SN adoptees from China. These children were most often diagnosed with a physical or medical issue.

We asked parents if there were any inaccuracies or discrepancies between their children's health and their medical records. With regards to medical records coming from China, only 71 of the 142 (50%) adoptees with SN had accurate medical records. The most common issue was that the child had a problem that was not included in the medical records. This was the most common discrepancy for all three diagnosis-timing groups. When asked why the medical records were discrepant, the majority of affected parents in all three diagnosis-timing groups indicated that the quality of medical record-keeping was too poor. It is unclear whether parents had access either to summaries or the original records in Chinese. Miller (2013b) has observed that translated medical records may contain less detail and be more inaccurate than are records in the COO language. While the inaccuracy or insufficiency of translated records is problematic, this responsibility likely is outside the purview medical professionals in the COO.

**Table 3.6: Special Needs Adoption From China**

		<b>Initial Diagnosis</b>	<b>Late Diagnosis</b>	<b>Additional Diagnosis</b>	<b>Total</b>
<b>Total Adopted</b>	<b>271 Total from China</b>	105	37	45	142
<b>Timing of Diagnosis</b>	<b>Immediately Apparent</b>		8	16	24
	<b>Developmental</b>		26	27	53
<b>Type of Special Need</b>	<b>Physical</b>	100	5	25	130
	<b>Developmental Delay</b>	15	25	20	60
	<b>Growth Delay</b>	9	7	7	23
	<b>Mental/Emotional</b>	2	17	15	34



<b>Received Treatment</b>	<b>Yes</b>	63	31	36	130
	<b>No</b>	36	3	7	46
<b>Treatment First Received</b>	<b>In China</b>	51			51
	<b>At Home</b>	10			10
<b>Medical Records</b>	<b>Accurate</b>	46	18	7	71
	<b>Incomplete/Missing info</b>	19	6	9	34
	<b>Had problem not listed</b>	23	9	18	50
	<b>Listed problem didn't have</b>	8	0	2	10
	<b>More severe than listed</b>	7	1	7	15
<b>Reason for Medical Record Issue</b>	<b>Pros Dishonest/ Inaccurate</b>	13	5	8	26
	<b>Poor Quality Care</b>	21	5	15	41
	<b>Could Not Diagnose Earlier</b>	7	1	5	13
<b>Insufficient Pre-Placement Care Areas</b>	<b>Feeding &amp; Nutrition</b>	58	18	26	102
	<b>Adult Caring/ Nurturing</b>	45	18	26	89
	<b>Medical Care</b>	43	13	25	81
	<b>Social Interaction</b>	28	10	14	52
	<b>Education</b>	32	5	17	54

**Russia.** In our sample, there were 139 children adopted from Russia. Of these 139 children, 96 ( 69%) have or had an identified special need.

The largest absolute number in the Late Discovery diagnosis-timing group, 54 children, came from Russia. These 54 cases represented 56 percent of all SN children adopted from Russia, and they were most often diagnosed with a mental or emotional special need. Table 3.7 presents statistics for all children with SN adopted from Russia.

There were also Initial-Diagnosis adoptees from Russia: 42 adopted children were initially diagnosed in Russia as having a special need. These 42 initially-diagnosed children represented 30 percent of the Russian adoptees, and 44 percent of the SN children adopted from Russia. The most common issue identified in the Initial Diagnosis Russian group was a developmental delay.

Finally, there was also a group of Additional Diagnosis SN adoptees from Russia. Twenty-three children who were initially diagnosed in Russia were found to have an additional special need once in their adoptive country. These 23 children represented 24 percent of all SN adoptees from Russia, and most often were diagnosed with a mental or emotional issue.

With regards to medical records coming from Russia, only 28 of the 96 (29%) adoptees with SN had accurate medical records. The most common issue was that the adoptee had a problem that was not included in the records. This was the most common discrepancy for Late Discovery adoptees from Russia, whereas in the Initial Diagnosis and Additional Diagnosis timing groups the most common discrepancy was that the medical records indicated a problem the child did not actually have. When asked why the medical records were discrepant, parents of children diagnosed at different times had different perceptions. Parents of children who were diagnosed initially and those who had an additional diagnosis indicated that the quality of medical record-keeping was poor and led to differences between their children's health and medical records. However, parents of Russian children who were diagnosed in the RC felt most often that Russian professionals were either accidentally or purposefully inaccurate in their reporting. These parents most often indicated this reason for discrepancy even when an option was provided to indicate that the problem could not have been diagnosed earlier.

**Table 3.7: Special Needs Adoption from Russia**

		<b>Initial Diagnosis</b>	<b>Late Diagnosis</b>	<b>Additional Diagnosis</b>	<b>Total</b>
<b>Total Adopted</b>	<b>139 Total from Russia</b>	42	54	23	96
<b>Timing of Diagnosis</b>	<b>Immediately Apparent</b>		5	8	13
	<b>Developmental</b>		47	15	62
<b>Type of Special</b>	<b>Physical</b>	22	15	6	43

<b>Need</b>	<b>Developmental Delay</b>	29	30	14	73
	<b>Growth Delay</b>	19	16	7	42
	<b>Mental/Emotional</b>	15	50	18	83
<b>Received Treatment</b>	<b>Yes</b>	16	54	9	79
	<b>No</b>	20	0	9	29
<b>Treatment First Received</b>	<b>In Russia</b>	10			10
	<b>At Home</b>	6			6
<b>Medical Records</b>	<b>Accurate</b>	14	8	6	28
	<b>Incomplete/Missing info</b>	7	7	5	19
	<b>Had problem not listed</b>	7	21	5	33
	<b>Listed problem didn't have</b>	13	7	6	26
	<b>More severe than listed</b>	1	8	1	10
<b>Reason for Medical Record Issue</b>	<b>Pros Dishonest/Inaccurate</b>	8	16	3	27
	<b>Poor Quality Care</b>	11	8	8	27
	<b>Could Not Diagnose Earlier</b>	1	4	1	6
<b>Insufficient Pre-Placement Care Areas</b>	<b>Feeding &amp; Nutrition</b>	26	43	16	85
	<b>Adult Caring/ Nurturing</b>	25	44	15	84
	<b>Medical Care</b>	16	37	11	64
	<b>Social Interaction</b>	17	22	13	52
	<b>Education</b>	13	22	11	46

**Ethiopia.** In our sample, there were 167 children adopted from Ethiopia. Of these, 56 (34%) have or had special needs, the third-largest group of such sample adoptees. There were 24 adopted children initially diagnosed in Ethiopia as having a special need in our sample, representing 14 percent of the Ethiopian adoptees, and 43 percent of the SN children adopted from Ethiopia. The most common issue identified in the Initial Diagnosis Ethiopian group was a physical or medical need. Table 3.8 presents statistics for all children with special needs adopted from Ethiopia.

The Late Discovery group included 32 children who were not diagnosed in Ethiopia, but in their adoptive country. These 32 cases represented 57 percent of all SN children adopted from Ethiopia. These children were most often diagnosed with a mental or emotional special need.

Finally, there was also a group of Additional Diagnosis SN adoptees from Ethiopia. Seven children initially diagnosed in Ethiopia were found to have an additional special need once in their adoptive country, representing 13 percent of all SN adoptees from Ethiopia. These children were most often diagnosed with a mental or emotional issue.

With regards to medical records coming from Ethiopia, only 30 of the 56 (54%) adoptees with special needs had accurate medical records. The most common discrepancy for Initial Diagnosis adoptees from Ethiopia was incomplete medical records, whereas in the Late Discovery timing group, the most common discrepancy was that the adoptee had a problem not listed in the medical records. When asked why the medical records were discrepant, parents of children diagnosed at different times had different perceptions. Parents of children who were diagnosed initially and those who had an additional diagnosis indicated that the quality of record-keeping was too poor and led to differences between their children's health and medical records. However, parents of children who were diagnosed in the RC felt their child's need could not have been diagnosed earlier.

**Table 3.8: Special Needs Adoption from Ethiopia**

		Initial Diagnosis	Late Diagnosis	Additional Diagnosis	Total
<b>Total Adopted</b>	<b>167 Total from Ethiopia</b>	24	32	7	56
<b>Timing of Diagnosis</b>	<b>Immediately Apparent</b>		10	2	12
	<b>Developmental</b>		18	5	23
<b>Type of Special Need</b>	<b>Physical</b>	15	8	3	26
	<b>Developmental Delay</b>	0	13	1	14

	<b>Growth Delay</b>	1	1	0	2
	<b>Mental/Emotional</b>	0	16	5	21
	<b>Age</b>	12	0	0	12
<b>Received Treatment</b>	<b>Yes</b>	11	0	6	17
	<b>No</b>	9	0	1	10
<b>Treatment First Received</b>	<b>In Ethiopia</b>	6			6
	<b>At Home</b>	4			4
<b>Medical Records</b>	<b>Accurate</b>	16	12	2	30
	<b>Incomplete/Missing info</b>	4	4	1	9
	<b>Had problem not listed</b>	1	6	1	8
	<b>Listed problem didn't have</b>	1	0	1	2
	<b>More severe than listed</b>	1	4	1	6
<b>Reason for Medical Record Issue</b>	<b>Pros Dishonest/Inaccurate</b>	2	3	1	6
	<b>Poor Quality Care</b>	4	5	2	11
	<b>Could Not Diagnose Earlier</b>	0	6	0	6
<b>Insufficient Pre-Placement Care Areas</b>	<b>Feeding &amp; Nutrition</b>	10	20	4	34
	<b>Adult Caring/ Nurturing</b>	11	18	3	32
	<b>Medical Care</b>	12	20	5	37
	<b>Social Interaction</b>	3	8	2	13
	<b>Education</b>	11	14	4	29

**Guatemala.** In our sample, there were 163 children adopted from Guatemala. Of these, 53 (33%) have or had special needs. Table 3.9 presents statistics for children with special needs adopted from Guatemala.

The largest proportion of the Late Discovery group was adopted from Guatemala. Fifty-one children were not diagnosed in Guatemala, but in their adoptive country, representing 96 percent of all children with SN adopted from Guatemala. These children were most often diagnosed with a developmental delay. This means that nearly all children with SN adopted from Guatemala were not diagnosed before their adoptions, and parents of Guatemalan adoptees had to handle the diagnoses at home.

With regards to medical records, only 27 of the 53 (51%) adoptees with special needs from Guatemala had accurate medical records. The most common issue was that the child had a problem not listed in the records. This was especially the case for the Late Discovery timing group. When asked why the medical records were discrepant, the majority of parents of Guatemalan adoptees with special needs indicated that the quality of medical record-keeping was too poor.

**Table 3.9: Special Needs Adoption from Guatemala**

		Initial Diagnosis	Late Diagnosis	Additional Diagnosis	Total
<b>Total Adopted</b>	<b>163 Total from Guatemala</b>	2	51	1	53
<b>Timing of Diagnosis</b>	<b>Immediately Apparent</b>		8	1	9
	<b>Developmental</b>		41	0	41
<b>Type of Special Need</b>	<b>Physical</b>	2	8	0	10
	<b>Developmental Delay</b>	0	40	0	40
	<b>Growth Delay</b>	0	5	0	5
	<b>Mental/Emotional</b>	0	37	1	38
<b>Received Treatment</b>	<b>Yes</b>	1	47	1	49
	<b>No</b>	1	1	0	2

<b>Treatment First Received</b>	<b>In Guatemala</b>	1			1
	<b>At Home</b>	0			0
<b>Medical Records</b>	<b>Accurate</b>	2	24	1	27
	<b>Incomplete/ Missing info</b>	0	6	0	6
	<b>Had problem not listed</b>	0	10	0	10
	<b>Listed problem didn't have</b>	0	2	0	2
	<b>More severe than listed</b>	0	2	0	2
<b>Reason for Medical Record Issue</b>	<b>Pros Dishonest/ Inaccurate</b>	0	6	0	6
	<b>Poor Quality Care</b>	0	8	0	8
	<b>Could Not Diagnose Earlier</b>	0	4	0	4
<b>Insufficient Pre-Placement Care Areas</b>	<b>Feeding &amp; Nutrition</b>	0	16	0	16
	<b>Adult Caring/ Nurturing</b>	0	21	0	21
	<b>Medical Care</b>	0	14	0	14
	<b>Social Interaction</b>	0	8	0	8
	<b>Education</b>	0	4	0	4

In summary, we have called attention to the four countries discussed above: China, Russia, Ethiopia and Guatemala because each illustrates a unique profile of SN and timing of diagnosis. Table 3.10 displays cross-country statistics for comparison. Differences could be due to when the child's special need was identified, the percentages of children diagnosed with physical/medical needs or developmental delays, or the number of children diagnosed in the COO versus in adoptive country.

**Table 3.10: Special Needs and Medical Records by Country of Origin**

	China	Russia	Ethiopia	Guatemala
<b>Total Number of Children Adopted</b>	271	139	167	163
<b>Total Number of Special Need Children Adopted</b>	142 (52%)*	96 (69%)*	56 (34%)*	53 (33%)*
<b>Initially Diagnosed Special Need in Birth Country</b>	105 (74%)**	42 (44%)**	24 (43%)**	2 (4%)**
<b>Diagnosis of Initial Special Need</b>	Physical	Developmental	Physical	Physical
	100	29	15	2
<b>Discovered Special Need at Home</b>	37 (26%)**	54 (56%)**	32 (57%)**	51 (96%)**
<b>Diagnosis of Late Discovered Special Need</b>	Developmental	Mental/ Emotional	Mental/ Emotional	Developmental
	25	50	16	40
<b>Discovered Special Need at Home on top of Birth Country Dx</b>	45 (32%)**	23 (24%)**	7 (13%)**	1 (2%)**
<b>Diagnosis of Late Discovered Additional Special Need</b>	Physical	Mental/ Emotional	Mental/ Emotional	Mental/ Emotional
	25	18	5	1
<b>Medical Records Were Accurate</b>	71	28	30	27
<b>Most Common Issue with Medical Records</b>	Child Had a Problem Not in Records	Child Had a Problem Not in Records	Incomplete or Missing Information	Child Had a Problem Not in Records
<b>Most Common Issue with Medical Records For Initial Dx</b>	Child Had a Problem Not in Records	Problem in Records Child Didn't Have	Incomplete or Missing Information	N/A
<b>Most Common Issue with Medical Records For Late Dx</b>	Child Had a Problem Not in Records	Child Had a Problem Not in Records	Child Had a Problem Not in Records	Child Had a Problem Not in Records



<b>Most Common Issue with Medical Records For Additional Dx</b>	Child Had a Problem Not in Records	Problem in Records Child Didn't Have	N/A	N/A
<b>Most Common Reason for Medical Record Issues</b>	Poor Quality Care	Poor Quality Care/ Pros Dishonest	Poor Quality Care	Poor Quality Care
<b>Most Common Reason for Medical Record Issues For Initial Dx</b>	Poor Quality Care	Poor Quality Care	Poor Quality Care	N/A
<b>Most Common Reason for Medical Record Issues For Late Dx</b>	Poor Quality Care/ Pros Dishonest	Pros Dishonest	Could Not Be Diagnosed Earlier	Poor Quality Care
<b>Most Common Reason for Medical Record Issues for Additional Dx</b>	Poor Quality Care	Poor Quality Care	Poor Quality Care	N/A

**\* These percentages are of total number of children adopted from each country**

**\*\* These percentages are of total number of children with Special Needs from each country**

The bottom-line, however, is that the majority of children diagnosed in their birth countries with special needs have physical or medical disabilities (very likely observable disabilities). In contrast, many children who are identified with special needs after adoption have mental and emotional difficulties or developmental delays. These special needs may not be as readily diagnosable because of their lack of physical manifestation, lack of competent developmental and mental health professionals, and the developmental immaturity of children at the time of referral.

### **Adoption Professionals on Special Needs Adoptions**

We asked very few questions of adoption professionals in the online survey related to special needs. The majority of the questions concerned the likelihood of adoption for children with special needs (including older children). COO professionals indicated that children with special needs or children over age 5 are somewhat likely (60%, n=15) or highly likely (12%, n=3) to be placed for adoption (either domestically or internationally); 28 percent (n=7) of COO professionals said it was “not very likely” that these children would be placed.

We also gathered information in order to understand the differences in the populations of children adopted domestically in COOs and those adopted internationally from COOs. COO professionals indicated that there were differences in the population of children adopted domestically, and those placed internationally. Nearly three-quarters of COO professionals (71%, n=10) indicated that older children, mixed race children, and children with special needs are kept from international placement because older or special needs children may have too difficult a time adjusting, or that adoptive families lack resources to care for children with moderate to severe needs. The implication was that these children were just not placed in families at all. Additionally professionals indicated that they keep *“most desirable children for domestic adoption.”* For example, one reported:

*Families are less likely to choose a child with such issues, the information is sometimes too scarce to make a good determination of how the child will do, there are stigmas associated with these characteristics as well as potentially greater adjustment issues, etc.*

However, in their open-ended comments, some COO professionals reported that domestic placements are increasing. For example, one noted, *“domestic adoption is the preference, so with further adoption education domestic adopters are becoming more open to special needs and older children.”*

Another important component of this report on the changing world of ICA includes interviews with 19 policymakers representing COOs and RCs. For detailed discussion of these interviews, please see Deoudes (2013). Here, we briefly summarize themes related to SN that emerged in the policymakers' interviews.

Improvements in child welfare systems and increases in domestic adoptions in COOs have led to changes in the characteristics of children who are available for ICA. Almost all of the countries represented in the interviews reported increasing numbers of adoptions of children with special needs. This was the case for both COOs and RCs. This important development highlights how improvements in systems of care and domestic placements of normative children can make way for permanency options for the most vulnerable children. Some policy makers also noted an increasing willingness of pre-adoptive parents in RCs to adopt children with special needs.

One notable anomaly is the United States. In the US, the number of waiting children in foster care who have special needs is not being matched by the number of families who seek to adopt domestically. ICA through outgoing adoptions has been encouraged by US officials as a pathway to permanency for some children who otherwise would not find families. As a result, the U.S. has become the only high-resource RC that also places children in other countries (Naughton, 2012), thus becoming a COO as well.

## Summary and Recommendations Related to Special Needs

As we move to discuss the implications of these findings, it is important to note that parents of children with special needs adopted internationally may have been more likely to complete the survey than were parents of typically developing children. If that was the case, the percentage of children who have/had SN in this sample might be higher than in the larger population of ICA families.

These findings point to the substantial additional complexities of ICA of children with special needs. Pre-placement care in COOs often is insufficient to diagnose children before placement, whether due to inadequate records or deficient care and nutrition. As a result, many parents adopting internationally find that their children have unexpected issues. Even when parents know about a diagnosis, it is likely that another special need will later emerge, and likely that these will be mental, emotional or learning difficulties. Parents who expect to adopt a child with special needs tend to receive more comprehensive services from their agencies. Many adopt a child with SN who can successfully be treated in the RC. However, Miller (2013a) cautions that although a disorder may be treated successfully, unanticipated consequences and late effects<sup>5</sup> from the initial disorder may later emerge. A large proportion of families need help in addition to those post-placement services routinely provided by agencies. Parents too often have to find such assistance on their own, and often have difficulty locating professionals trained in addressing the specific needs of ICA families. In our survey, however, 87 percent of all families with children with special needs received treatment either in the birth country or in the adoptive country, or both.

Recommendations are directed at each phase of adoption.

- Pre-placement care in COOs needs to be improved, with better training of medical and caregiving professionals, as well as better equipment. Hospitals, orphanages, institutions and foster families in COOs should receive financial support to ensure that children with special needs are receiving professional assessments and treatment as early as possible and for as long as is needed.
- During the pre-placement period, all prospective parents must be educated about the fact that they may raise children with at least one special need – whether or not that was their intent and regardless of the content of the medical dossier. More specifically, these parents should receive better preparation for addressing discrepancies in children’s medical records, the possibility of a newly diagnosed SN upon return home or an emerging issue during development, and for finding and accessing required services.

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<sup>5</sup> A “late effect” is a condition that appears after the acute phase of an earlier, causal condition has run its course. A late effect can be caused directly by the earlier condition, or indirectly by the treatment for the earlier condition.  
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- Finally, adoption agencies, pediatricians and other care providers need to provide more comprehensive services and supports for families who face a new special needs diagnosis, as well as for all families who require assistance throughout the child's development.

## IV. BIRTH PARENT CONTACT

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Adoptions in the U.S. were cloaked in secrecy, stigma and shame until the latter half of the 1900s (Pertman, 2000; 2012). Adoptive families were instructed to raise their adopted children “as if” they were their biological offspring (Kirk, 1964). Openness in adoption, or birthparent contact (BPC) gradually took hold during the two decades following Sorosky, Baran and Pannor’s 1984 landmark book, “The Adoption Triangle,” on the impact of closed adoption records. The debates regarding the benefits and costs of BPC raged as such placements evolved and the first studies pointed to more positives than negatives (Grotevant & McRoy, 1998; Henney et al., 2003; 2004; Neil, 2003; 2010; Siegel, 1993). In the past 15 years, such contact has emerged to become the norm among domestic private adoptions in the U.S. (Pertman, 2000; 2012). In a 2012 survey of agency professionals in infant adoption programs in the U.S., 95 percent of agencies offered open adoptions and 95 percent of adoptions were planned to facilitate some contact, whether mediated or direct (Siegel & Smith, 2012). In a representative study of adoptive families in the U.S., just over 67 percent raising children adopted privately reported ongoing BPC after adoption (Vandivere, Malm & Radel, 2009). In stark contrast, only 6 percent of families formed through ICA reported ongoing contact.

BPC in international adoptions is addressed in the HCIA (see Articles 4 and 5 of the HCIA). The guidelines indicate that contact should not take place unless specific requirements are met, namely, 1) that the child is determined to be legally adoptable; 2) birth/first parents or other legal guardians have provided fully informed consent after counseling and without financial inducement; 3) after all other in-country options have been exhausted; and 4) after parents have been approved to adopt. However, the HCIA does not address contact after these requirements have been met, or after placement, noting only the possibility of contact, “where appropriate and permitted” (Hague Conference on Private International Law, 2008, p. 126).

A common perception is that all or nearly all ICAs are closed, and that adoptive families rarely, if ever, have contact with birth families (BFs) in their children’s COO (Siegel & Smith, 2012). Zhang and Lee (2010) found that many adoptive parents chose ICA largely to have a closed adoption, as well as to avoid any emotional turmoil involved if a pregnant woman were to change her mind about adoption. In light of these assumptions, we found our survey results on openness to be very important.

## Professionals on Openness

We asked adoption professionals whether open adoptions exist and if they are encouraged in domestic and/or in international adoptions. Eleven COOs were represented by 23 respondents. Open ICAs exist in 45 percent of COOs and are encouraged in 36 percent of these countries. However, open adoptions were significantly more common among RCs. Open ICAs exist and are encouraged in 100 percent of the RCs (4 RCs were represented by 64 respondents). These significant differences in attitudes and practices about contact may need to be navigated by professionals in RCs and COOs during the adoption process. However, although these differences exist between RCs and COOs, we see an important trend of openness in international adoption emerging in countries of origin.

## Parents' Experiences with Contact

Although the parent survey did not specifically address birth parent contact, the reality of it emerged in responses to open-ended questions, such as: "What was the most useful or helpful part of the process?" "How do you support your child's connection to their birth country?" and "What recommendations would you make to prospective international adoptive parents?"

The question that singularly elicited the largest number of comments about birth parents was about why adoptive parents chose ICA (n=117). Adoptive parents noted that with domestic adoption, birth parents not only had the power to choose whom they would entrust their child with, but also to change their minds about placement. It was these types of situations that adoptive parents sought to avoid as they chose ICA. Moreover, when asked to identify factors influencing their choice of an ICA, 35 percent of adoptive parents endorsed the item, "there would be no contact with birth families." Thus, a sizeable number of adoptive parents perceived that the adoption process in ICA was simpler and that they could avoid contact with birth parents.

Adoptive parents' responses to our other open-ended questions about BPC (total responses=230) revealed that many families ended up having contact and others wished they had. Many adoptive parents described a variety of experiences leading to contact with birth families; one parent summed up the BPC reality:

*Too many people do not understand the lifelong commitment you make to your child's culture and racial identity. And if you're not comfortable with the fact that your child has another set of "real" parents, then adoption is not for you. You can't escape birthparent questions by going overseas, and you shouldn't try.*

Parents noted that contact arose at different points and for different reasons. Some adoptive families experienced contact with birth families during the course of adopting, either before placement or during the process in the COO.

Perhaps most poignant are the reflections of parents who did not want contact when they initiated their adoptions and came to believe, as their children were developing, that it is very important. Several parents' responses to different questions expressed their sadness at the pain their children have experienced as they coped with lack of knowledge about their birth families.

### Pre-Placement Initiation of Contact

Some prospective parents sought to meet children's biological parents/families to confirm their intent to relinquish custody, to feel certain no abuses had transpired in the adoption process, and/or to establish sustainable connections. Parents described several possible outcomes of meeting birth families in-country. In one type of outcome, APs were matched with a child and then biological parents changed their minds. For example, one adoptive parent shared, "*We lost our first referral when mother decided to raise him herself.*" APs also described circumstances where other birth relatives (most frequently the father or grandparent) contested the relinquishment. One reported,

*Our most recent adoption was to be 2 children, 1 child was found to have a grandparent that would not relinquish custody nor take him. The wait for the child system to revoke the rights was too long for us to leave the other child there. So we opted for 1 child instead.*

A second outcome was that adoptive parents confirmed the intent to allow the adoption, but the birth parents did not fully understand that adoption is meant to be permanent. Although we don't know how common this issue is, we know that these observations are not unique. Roby and Matsumara (2002) reported on cultural differences in birth and adoptive parents' understandings of adoption and permanence with adoptions of children from the Marshall Islands. Hogbacka (2012) found similar differences in adoptions from South Africa. These findings highlight cultural differences in the meaning of adoption and point to the importance of ensuring that birth families fully understand – before confirming their intent to allow their child to be adopted – that according to RC law and in adoptive parents' views, the process is permanent..

In a particularly poignant example of cultural differences, one parent described a belief that there also was some collusion between local professionals and birth families:

*We adopted biological siblings ... We had a meeting with the birth father, an agency-produced DVD of their life story.... At every step, we were given the convincing story that she [birthmother] died and their father remarried – and that the stepmom was neglectful/ abusive to these youngest two children. That neglect, plus the burden of enormous poverty, were [sic] the reasons given for relinquishment. We later learned*

*through a searcher and our own contact with the family that the birth mother was alive and well. They had used the Death Certificate of a grandmother as evidence of the mother's death. We've since learned that the family desperately wanted to send some of their children to America to be successful, so when they are grown, the children can "share their success" with their [birth] family. We are certain that in this local town, officials and the in-take care center are helping families create these fictions in order to send children to America. What we don't know, is how much is "help" and how much is "pressure." We think we may never know the full truth. It is heartbreaking to know our children have parents who are alive and well. We love our children deeply, but what they needed most was a way to remain with their family.*

In a third outcome, intent to relinquish the child was confirmed, and the biological and adoptive parents agreed to continued contact. APs indicated there are different methods for maintaining contact, including sending letters and pictures, making phone calls, and sometimes making trips back to the birth country.

The final outcomes of desired contact in COOs involved the obstruction of local professionals. Adoptive parents in our survey indicated troubling instances where their requests to meet parents/families or foster families were discouraged or denied by local professionals, or provided for an additional fee. Here are two parents' accounts:

- 1) *The most challenging part of the process was when the orphanage refused to allow us to meet our child's foster family.*
- 2) *The agency's unwillingness to connect me with my daughter's birth family has been frustrating. Once my daughter's adoption was done, they did not/will not do anything to locate my daughter's birth family without a fee. I think it should be part of the agency fees that we pay.*

### Post-Placement Initiation of Contact

Contact between adoptive and birth families was sometimes established after placement – 35 parents reported their experiences with this arrangement. APs and BPs may have contact, in the ways described above, based on an agreement at placement. Such initial agreements also might cover contact with the child's extended birth family. One parent noted that these can go very well: *"We really had a "dreamy" experience. A VERY young baby (5 weeks at referral) – a long conversation with our daughter's birth mom, and we now send letters 3x a year as promised to our birth mom."*

In other cases, adoptive parents searched for their children's birth families for various reasons. Some respondents noted specific inconsistencies in their adoption paperwork, or in the process itself, while others had questions such as whether the BP had been pressured, had given fully

informed consent, or if poverty had been a driving factor for the placement. Parents searched independently or through private investigators to confirm the legal availability of their children. One successful parent reflected:

*We have been very lucky. Unlike most parents in the Chinese international adoption program, we made contact with the birth parents, confirmed by DNA. We have corresponded with them and are completely confident that they were putting their child up for adoption due to the pressures of the One Baby program and that there are no issues of baby snatching or money changing hands.*

Some families searched for birth relatives at the adoptee's request; as a parent noted,

*We are very blessed to have our son in our lives. We chose to "open" our adoption (at our son's request) in 2008, so we searched for and found our son's birth mother (and bio siblings in Guatemala). It has been very beneficial for him to know his origins and his bio-family.*

Other families have searched as a way to help maintain their children's and their families' connections to the COO. This parent has used various strategies:

*We will take trips every few years. We keep contact (letters, pics [sic], visits with) all our kids [sic] finders/first family.<sup>6</sup> Our daughter's mother we set up a PO Box for her and will send pictures and letters via email to a friend in Addis who can print and mail. We will call every few months.*

We found, in these instances, that parents created their own protocols for open adoptions. Some used post office boxes, others hired investigators, and yet others did DNA testing. This parent has taken several steps to make the adoption more open:

*We have since hired a private investigator to open a post office box so we can have more regular contact with our child's birth mother, more like an open adoption. We have searched for interpreters so we can send her letters in her language (which is extremely uncommon). We feel contact is important and we will return to Ethiopia when our child is 3 years old and yearly thereafter.*

## Culturally Relative Notions of Adoption

Many open-ended responses from U.S. adoptive parents supported previous findings about the different cross-cultural meanings of "adoption" (Roby & Matsumura, 2002). For example, Dr. Benyam Mezmur, the Chairperson of the African Committee of Experts on the Rights and

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<sup>6</sup> In this instance, it is unclear if the parent is using "first family" to refer to a foster family or to a birth family. In most cases, "first family" is used to refer to the birth family both before and after relinquishment of a child.  
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Welfare of the Child, suggested that “adoption” in Ethiopia and other African nations may not carry the same sense of permanency (Mezmur, 2013) as in the West. Mezmur discussed the impact of this misunderstanding on Ethiopian mothers, and parents in our survey indicated some birth families have an understanding of adoption as something more akin to boarding or fostering.

### From One Parent to Another

In one of the last survey questions, we asked what prospective adoptive parents should know about ICA. These responses revealed the more nuanced realities for adoptive parents, and how their initial assumptions about the lack of contact with birth families changed with their subsequent experiences. Some parents recommended that other PAPs carefully consider what they believe the impact of closed adoption might be. One parent offered this advice: *“Consider the importance of birth family contact before deciding on international adoption. It is usually not an option and while prior to adopting this might not seem important, I have found that it is extremely important.”* Others were more definite in their support of more-open adoptions, describing the complexities of searching internationally later on, and children’s ability to maintain connections to their COOs. For example, two parents shared,

- 1) *Not having birth family contact has been the hardest thing and biggest disappointment about the adoption.*
- 2) *Whether or not there is the possibility that your child will find a birth parent, the urge to search in some or most children will not go away and adopting internationally puts one more layer of complication on your child. Do it, but be aware.*

Some parents were unequivocal about their recommendations concerning contact, saying that open adoptions are better for children, and that APs should insist on meeting birth relatives whenever possible. For example, this parent declared,

**Stop.** *Consider a domestic adoption first and really get to know what that procedure entails. If you choose to adopt internationally, make sure the country and agency are Hague accredited. Do a tremendous amount of research about your agency choices. Insist on birth family meetings if the child is not an orphan; insist on open adoption. In fact, if you are not open to communication and traveling to your child’s birth country, then you should not consider international adoption. I think families do not understand that adoption is not about you, the adoptive parent, it is primarily about the child you are about to adopt, his or her needs, wants, wishes, hopes for the future, and ability to have support from you and your community; Secondly, it is about your child’s adoptive family, their needs, their decisions.*

## Summary and Recommendations Related to Birth Parent Contact

In considering these findings and the following recommendations, please keep in mind that the parents responding to our survey were primarily from the U.S. These responses suggest that commonplace assumptions that international adoptions are closed may no longer be realistic, and that the new realities of BPC can be beneficial to families. Greater inclusion of birth relatives can be positive even if it adds complexity. Moreover, the assumption that international adoptions are simpler *because* of a lack of contact with families of origin was not supported by parents' comments and experiences.

APs in our sample experienced biological parents changing their minds, and discovered potentially unethical practices. They had to cope with the realization that birth parents might see adoption differently, had to navigate contact across culturally based differences in expectations and values, and sometimes had to deal with their roles in legally questionable placements. Additionally, the unstructured and individual methods APs undertake in order to establish contact with their children's birth families raise concerns about the legitimacy and ethics of intermediaries operating in COOs. These private individuals may or may not have any training in the complex issues involved in adoption, placing the burden on parents to determine the best way to convey information to their children and their birth families.

Based on these responses, several recommendations can be made for services:

- Prospective adoptive parents may benefit from learning about the lived experiences of seasoned adoptive families. One parent urged such exposure: *"Nobody can prepare you for meeting with birth family, but it would have been good to hear from others who had done so."*
- Professionals working in adoption need to be trained regarding culturally relative notions of adoption. Professionals working with birth parents – particularly those representing RCs – must understand culturally grounded beliefs about placing children with others and whether those beliefs are consonant with adoption laws in RCs and the HCIA definition of adoption. Professionals working with PAPs must prepare them for different beliefs that birth families may have and how they may impact contact.
- Allow PAPs and biological parents (when available) to meet before a change in the child's physical custody. Such a meeting would enable both to confirm the BP's fully informed decision to move forward with the adoption plan. These meetings should be facilitated by adoption professionals representing the COO who have not been involved with the specific children being placed.

- U.S. professionals could better serve families by providing recommendations and resources – without additional fees to the extent possible – for connecting APs with their children’s relatives, foster families and other important people in their early lives, as well as for navigating birth family contact. This may include connecting APs with trained professionals in the COO who have experience navigating the establishment of contact between families.
- Agencies should improve structures and processes for supporting families who wish to have or already have contact with their children’s birth families. These might include help in searching, providing information on drawing up agreements and assisting families to communicate. These should also include consideration of the impact of contact on birth families in COOs, for whom new information about a relinquished child may be challenging.
- The emotional impact of contact (or lack thereof) is also an area in which agencies could better support adoptive families, particularly those who feel they may have unwittingly colluded in unethical or even potentially illegal practices. Agencies might also prepare parents about the growing possibility that adopted children may undertake searches for birth family on their own using the internet, and that the discovered information may be difficult for everyone concerned without professional support. Professionals also should be prepared to provide support for families navigating such circumstances.

## V. HAGUE ADOPTION CONVENTION AND IMPLEMENTATION

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### Background

**T**he HCIA was promulgated to safeguard the rights of children, biological parents and adoptive parents (Hague Conference on Private International Law, 1993; 2008; 2011). In particular, it was designed to help eliminate illegal, irregular, premature or ill-prepared practices and to increase the likelihood that ICA occurred only after efforts to provide in-country permanency were exhausted. The treaty operates through a system of national Central Authorities, which agree to engage in between-country adoption practices that are consistent with HCIA guidelines. The implementation of the HCIA takes place on a country-by-country basis.

In an effort to understand professionals’ views about how adoption practices have been affected by HCIA implementation, we asked professionals in COOs and RCs a number of

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questions directly about the implementation of the HCIA. Questions included direct inquiry about fraud reduction, whether the HCIA's core purposes had been achieved (e.g., exhaust options in birth country; enhance record-keeping and reduce fraud; post-placement supports), and professionals' knowledge about various adoption practices that would be considered questionable or unethical. In addition, open-ended questions asked professionals to identify benefits and problems created by HCIA implementation, as well as recommended improvements to the HCIA. Parents also were asked a series of questions about their experiences with key adoption practices for which the HCIA has set guidelines. In addition, policymakers were interviewed and those findings are reported in the companion report (Deoudes, 2013). We now turn to report briefly on parents' responses and then more extensively on adoption professionals' responses. Our questions primarily concerned the first three general principles of the Hague Adoption Convention (Hague Conference on Private International Law, 1993).

## Survey and Respondents

### Parents on the Hague Adoption Convention

Although the HCIA was designed partly to safeguard parents' interests, survey responses showed 73 percent of parents did not factor in a country's HCIA-signatory status when considering it for adoption. Reasons for adopting from a non-HCIA-signatory varied widely (n=588); the most commonly endorsed reasons included wanting to adopt children most in need (25%, n=146), having a personal link to the country (30%, n=177), being eligible for the respective country (20%, n=118), a shorter wait (30%, n=177), and more reasonable expenses (13%, n=76). However, almost half (47%, n=277) of APs offered individual reasons for choosing a non-HCIA-signatory, which included a bilateral agreement being in place between the two countries involved; reputable agencies in the COO; COO having good caregiving system for waiting children; they adopted before the HCIA was promulgated; and *"as an ex-pat American, I cannot adopt from a Hague [-signatory] country."*

### Professionals' Voices

The professionals' survey questions regarding HCIA implementation can be clustered under three of the four key principles: best interests of the child, ensuring safeguards, and intercountry cooperation (Hague Conference on Private International Law, 1993). Preliminary analyses of data included two types of comparisons: between professionals from COOs and RCs, and between professionals from HCIA-signatory COOs and non-HCIA signatory COOs. (All professionals working in RCs were in HCIA-signatory RCs.) Where notable differences emerged, findings are reported for each group; otherwise, results are reported in the aggregate. Readers should note that some subgroups had a small number of respondents, and findings may need

to be viewed accordingly. Professionals' responses to four open-ended questions provided the findings reported here; these questions addressed in-country benefits of, problems created by adoption practice and the HCIA, and recommended improvements. In addition, questions addressing the intent of HCIA (e.g., exhaust options in birth country; enhance record-keeping and reduce fraud; post-placement supports) and implementation are reported, and implications for ICA are discussed.

We asked professionals whether they had experienced or observed a rise or fall in ICA during the last five years. Their responses substantiated the decrease in ICA (into or out of countries) and an increase in the time it takes to finalize adoptions. Responses to open-ended questions more frequently addressed problems (e.g., higher costs for agencies and families; adoption by birth relatives barred in some countries; fraud at a higher level in the system than before) than benefits (e.g., greater transparency and standardization; minimized illegal activity; more AP training) than problems.

## Best Interests of the Child Standard: Care in Country of Origin

### **Birth Family Supports; Preservation; Reunification**

The subsidiarity principle of the HCIA recommends that only after due consideration of national solutions should intercountry adoption be considered (Hague Conference on Private International Law, 1993; 2008; 2011). With this principle in mind, we sought to understand what policies and practices there were about keeping or reuniting children with biological families, or finding permanent families within COOs. We recognized that policies, supports and systems differ widely among countries, thus our questions attempted to collect the broadest information possible from COO professionals.

International adoption professionals in COOs were asked about practices and policies "on the ground" that support birth families. Here we summarize the findings regarding the best interests of children; data are presented in Appendix B. When asked who makes the final decision on whether a child remains with their family of origin, 50 percent said that the birth parent is responsible for the final decision. However, professionals in HCIA-signatory COOs were more likely to indicate the State made the decision, whereas the majority of non-HCIA signatory COO professionals indicated that birth parents made the decision. A similar distinction emerged between HCIA-signatory and non-HCIA-signatory COOs regarding whether there is a time limit in family preservation efforts. HCIA signatory COO professionals reported time limits, whereas non-HCIA-signatory professionals tended to report no time limit. These findings suggest that in HCIA-signatory COOs – or, at least, in those who responded – there may be a child welfare system in place to ensure that children's best interests are met.

When children have been removed from their families, professionals must consider the steps they will take to reunify. Non-HCIA-signatory countries are more likely to provide institution-based care, while treaty signatories are more likely to offer foster care.

### **Out-of-Home Care in Country of Origin**

***Why a child comes into care.*** We asked international adoption professionals to rank a list of eight possible reasons why children would come into care outside of their birth families. These reasons are included in Table 5.1 below with frequency information by subgroup. Professionals were also able to select an “other” option.

COO professionals responded that the top reason (selected by 26%) children come into care outside their families of origin is because of relinquishment or abandonment by the parents; this response was more common among non-HCIA signatory COOs (59%). It is striking to see in the companion report (Deoudes, 2013) that policymakers said that many COO governments have support systems in place to help families struggling financially and that few child placements stem from poverty. The fact that all of these countries in policymaker interviews are HCIA-signatories suggests that an important benefit of HCIA implementation is the increased supports for families struggling financially. Also in non-HCIA-signatory COOs, a higher percentage of professionals responded that parents cannot financially afford to raise the child.

**Table 5.1: Reasons a Child Comes Into Outside Care**

	COO Aggregated (%, n)	Non-HCIA-signatory COOs (%, n)	HCIA-signatory COOs (%, n)	RCs (%, n)
Parent relinquishes child or child has been abandoned	26%, 16	59%, 10	29%, 6	<b>20%, 11</b>
Parent(s) cannot financially afford to raise the child (including for medical reasons)	<b>16%, 10</b>	<b>33%, 6</b>	<b>19%, 4</b>	28%, 15
Abuse or neglect: third party removes child from parent(s)	<b>11%, 7</b>	7%, 1	<b>24%, 5</b>	<b>20%, 11</b>
Government laws limiting the number of biological children	6%, 4	0	<b>19%, 4</b>	2%, 1
Parent(s) died or cannot be located	6%, 4	<b>19%, 3</b>	6%, 1	13%, 7
Attitudes about certain children: special needs, gender, mixed-race	2%, 1	0	6%, 1	4%, 2
Attitudes about unwed motherhood	0	0	0	4%, 2
Child has been stolen/kidnapped or sold	0	0	0	9%, 5

**Where a child is in care.** In accordance with the subsidiarity principle of the HCIA, some countries have worked on developing systems for domestic adoption and alternatives to institutional care such as foster care or group homes. In interviews, (see companion report, Deoudes, 2013) policymakers noted an increase in domestic placements, as well as increased education about and incentives for domestic adoption. When asked where children live if they

are not with their families of origin, COO professionals responding to the survey overwhelming chose an orphanage of some type. Thus, according to the professionals surveyed, although COOs note that foster care systems are in place, the high odds are that children are in institutions. These findings are discussed in more detail in Appendix B.

***When a child remains in out-of-home care.*** We asked COO professionals about life in institutional care. We believed that in some areas, leaving a child in an institution effectively terminates parental rights. Of COO professionals, 61 percent reported that a parent can return to claim a child in an orphanage at any time, and a minority (21%) said there were varying time limits on a parent’s return. When asked to delineate this time limit, responses ranged from “*case-by-case determinations*” to “*6 months from the time of abandonment.*” Please see Table 5.2 for all frequencies by subgroup. Professionals in non-HCIA COOs more frequently responded that parents could return at any time to claim their children (87%) than those in HCIA signatory COOs.

**Table 5.2: Termination of Parental Rights**

	COOs Aggregated (%, n)	Non-HCIA- Signatory COOs (%, n)	HCIA-Signatory COOs (%, n)
Parent can return at any time	61%, 20	87%, 13	41%, 7
Parent can return within a time limit	21%, 7	0	35%, 6
Yes, rights are terminated	18%, 6	13%, 2	24%, 4

The HCIA calls for the collection and reporting of data on children in substitute care (Hague Conference on Private International Law, 2008, p. 53). Consistent data collection and storage of these statistics, as well as making the data accessible for review, are important steps toward ensuring that increasing numbers of children can find permanent families. We also know that some children spend their entire lives in orphanages until they “age out.” In an attempt to understand these policies globally, we asked COO professionals to report on whether children could live indefinitely in orphanages: 52 percent said yes; 32 percent said they did not know if that was possible; and the remaining 16 percent said children cannot live in orphanages indefinitely.

### **Record-Keeping and Access to Information**

Record-keeping and access to information are significant topics in international adoption, both because of the importance of medical information and because many believe adoptees have a



right to information about their families of origin. Our first question on this subject was meant to serve as a baseline of the types of information COOs keep on any child. These responses, reported in Table 5.3 below, indicate that patterns of both national and local government record-keeping differ. These differences may be due to requirements set by HCIA implementation to keep certain records but not others, such as differences in keeping medical records, which is more commonly reported by those in Hague COOs.

**Table 5.3: COO Local Government Record Keeping by HCIA-Signatory Status**

National Level Records on ANY child	COOs Aggregated (%, n)	HCIA- signatory COOs (%, n)	Non- HCIA- signatory COOs (%, n)	Local Level Records on ANY child	COOs Aggregated (%, n)	HCIA- signatory COOs (%, n)	Non- HCIA- signatory COOs (%, n)
Birth Records/ Registrations	88%, 28	82%, 14	93%, 13	Birth Records/ Registrations	73%, 16	75%, 9	70%, 7
Parents' Identities	66%, 21	59%, 10	71%, 10	Parents' Identities	64%, 14	50%, 6	80%, 8
Location of Child	78%, 25	100%, 17	50%, 7	Location of Child	50%, 11	67%, 8	30%, 3
Abandonment Status	91%, 29	100%, 17	79%, 11	Abandonment Status	91%, 20	100%, 12	80%, 8
Death records	78%, 25	65%, 11	93%, 13	Medical Records	50%, 11	83%, 10	10%, 1

When asked what information is kept by the COO after a child is adopted, 93 percent reported that information on social and emotional development is kept; 79 percent said medical and education records are kept; and 66 percent reported that birth parents' identifying information is kept.

We asked a follow-up question about who keeps these records on the adopted child. Of the COO professionals responding, 52 percent believed they were kept by the adoption agency/institution/hospital; 41 percent said they were kept the state/ministry/country level; and 7 percent said the records were kept at the local government level.

Table 5.4 shows responses to a question about which specific records on the child are accessible. As can be seen in the table below, medical records are more likely to be available for children in HCIA-signatory COOs, whereas parents' identifying information is more likely to be available for children in non-HCIA signatory COOs.

**Table 5.4: Which Specific Records Are Accessible?**

	Medical Records  (%, n)	Identifying Information  (%, n)	Non-Identifying Information  (%, n)
COOs Aggregated	40%, 6	33%, 5	27%, 4
HCIA-signatory COOs	63%, 5	13%, 1	25%, 2
Non-HCIA-signatory COOs	14%, 1	57%, 4	29%, 2

RC professionals reported on the information to which adoptees have access once in their adoptive country; 46 percent said that adoptees have legal access to all information from their birth countries, while 19 percent indicated that adoptees have access to only some information or none at all.

### **Making Eligible Children Available for ICA**

Of COO professionals responding, 79 percent indicated all children in need of permanency are NOT made available for ICA; 21 percent said yes, all children in need of permanency were made available for ICA.

We asked professionals to provide open-ended responses to the follow-up question, "If they are not made available, what happens to them instead?" Responses ranged from, "*I don't know*" to "*They are forgotten*" and "*Left out on the streets.*" Professionals indicated that if paperwork cannot be found, authenticated and verified, many children end up living in orphanages until they age out.

We then asked COO professionals to report on who makes the final decision that a child is eligible for ICA. The most common responses were: country/state/ministry official (42%); parents (37%); and court/judge/independent arbiter (25%). Less frequently chosen responses included: *local government official; representative of agency first responsible for child; adoption*

*agency/institution representative, private contractor responsible for placing the child; and lawyer or other independent professional.*

This pattern did not hold when COOs were separated by HCIA-signatory status. COO professionals in non-HCIA-signatory countries (n=6 countries) indicated that birth parents are most likely to make the final decision about ICA placement, whereas in HCIA-signatory COOs (n=8 countries), professionals reported that a country/state or ministry official is most likely to be responsible for the decision about ICA placement.

In terms of collecting information from birth parents on any child (whether or not he/she is available for adoption of any kind), 74 percent (n=23) of COO professionals indicated that consent to adopt is collected. Statistics on birth records/registration and other information are presented in Table 5.5 below. When we separated COO professional responses by HCIA-signatory status, 100 percent (n=13) of non-HCIA-signatory professionals indicated that consent to adopt is collected, compared to only 53 percent (n=9) of signatory professionals. The implication that there is more information collected from and involvement of birth parents in non-HCIA-signatory countries may be a result of increased government involvement in child care in COOs that are HCIA-signatories.

**Table 5.5: Information Collected From Birth Parents**

	COOs Aggregated (%, n)	Non-HCIA-signatory COOs (%, n)	HCIA-signatory COOs (%, n)
Consent to Adopt	74%, 23	100%, 13	53%, 9
Birth Records/ Registration	71%, 22	85%, 11	59%, 10
Identifying Information	68%, 21	85%, 11	53%, 9
Child's Health and Developmental History	52%, 16	46%, 6	53%, 9
Family Medical History	39%, 12	31%, 4	41%, 7
Prenatal Care Information	23%, 7	15%, 2	29%, 5
No information	19% (n=6)	0	35%, 6

***Children's eligibility for domestic and international adoption.*** In order to understand cultural values about children's adoptability and adoption practices, we asked COO professionals questions about children's characteristics and eligibility for domestic and international adoption. A question about differences in the characteristics of children placed at home or abroad elicited responses from 27 COO professionals. Of these, 63 percent said there are differences between children placed domestically and internationally. Another 30 percent reported that there is no domestic adoption in their countries. When further split by HCIA-signatory status, responses from 50 percent of non-HCIA-signatory COO professionals indicated no domestic adoption in their countries, compared to only 14 percent of HCIA-signatory COO professionals. Further, nearly 80 percent of HCIA-signatory COO professionals said there were differences between children placed domestically and internationally, compared to 42 percent of non-HCIA-signatory COO professionals giving the same reply.

A question about which characteristics make children ineligible for ICA drew 15 responses. Professionals could check all that applied. Age was the primary ineligible characteristic (100%), followed by health status (60%), ability or social skills (each 33%), intellectual features (27%) and physical appearance (20%). Other characteristics offered by professionals (27%) included lack of documentation and available relative.

The majority of professionals (n=25) who responded about children with special needs or who are over age 5 said they are likely (72%) to be placed for ICA, while 28 percent said such children are not likely to be placed. When further delineated by HCIA status, 85 percent of HCIA-signatory COO professionals indicated that these children are likely to be placed, compared with only 58 percent of non-HCIA-signatory COO professionals.

Professionals (n=14) responded to a follow-up question about why the specific characteristics make children ineligible for ICA; they could check all that applied. Of those responding, 29 percent noted the country's preference for domestic adoption, and 14 percent said professionals don't think parents will adopt children with the ineligible characteristic(s). The most-frequent response was "Other" (79%). Sample reasons included: younger, healthier children are preferred by domestic adoptive families, adoptive parents lack resources to raise a child with special needs, and the stigmas associated with the ineligible characteristic(s) make it difficult for children to adjust well. In one country, domestic placement of older children is preferred; a professional noted:

*Older children (about age 5-6 and up) are more likely to be placed in foster care or domestic adoption, as families generally do not have the time/means to care for a younger child; doesn't mean these children are not placed internationally, just that it is less likely that younger children will be placed domestically.*

Of the four professionals (all from non-HCIA signatory COOs) answering the question about why there is no domestic adoption, three said it is not part of their cultural norms. Other responses included that there is no central authority to manage domestic adoption, lack of resources for domestic adoption, and child slavery is more common.

### **Finding Families for Children through Intercountry Adoption**

Once children are legally available for ICA, a critical decision is the match to families. For children with special needs or who are older, this is especially important, as adoptive families' must have the capacities to understand their children's needs and how to address them. When poor matches are made, adoptive placements are at greater risk for later adjustment difficulties, ranging up to extreme situations in which parents feel they cannot continue to parent. When ICAs fail in a receiving country, supports and systems to resolve the situation are less available than for public domestic adoptions. Careful matching is a critical way to ensure safe and permanent placements.

The HCIA provides guidelines regarding matching, which are designed to ensure careful consideration of families' ability to care for children, given their unique sets of characteristics and challenges (Hague Conference on Private International Law, 2008). These guidelines address responsibilities of professionals in COOs as well as in RCs. The HCIA recognizes the right and responsibility of each country to set its criteria for eligibility and how the matching process is implemented.

We asked professionals in COOs several questions about their practices regarding matching families for children available for ICA. These questions addressed factors considered in matching, as well as characteristics that might make pre-adoptive parents ineligible to adopt from the respective COO.

**Family Characteristics.** COO professionals were asked to identify all characteristics that make a family ineligible for an ICA through their country. Of the 23 responding, 78 percent noted being a member of a same-sex couple, 78 percent also said that age – being too old or having too great an age gap between parent and child – was ineligible characteristic. Others included being too young (70%), having a health issue (39%) and being unmarried (22%). Additional ineligible characteristics were offered by 30 percent and included: history of drug use, mental illness or being on disability, financial instability, and body-mass index.

Professionals in COOs and RCs were asked if COO governments require the use of certain exclusion criteria when considering prospective adoptive parents. Professionals were asked to check all criteria that apply. COOs have more restrictive criteria for PAP eligibility than do RCs. This difference is most notable regarding same-sex couples. Four of five COOs in this survey will deny such couples eligibility for ICA, but only one of five RCs do so. These data and data on the

exclusion criteria that professionals use beyond those required by their government are presented in Appendix B.

### **Ensuring Safe/Permanent Placements**

Aside from a careful matching process, the other important step that can ensure safe and permanent placements is consistent reporting on the status of the adoptive placement. In fact, this is the only recourse that COOs have: to expect RC professionals and/or adoptive families to provide reports about how adoptees are functioning after the placement. The Hague has expectations that RC professionals and/or families provide such reports to COOs.

We asked professionals in COOs what steps they take to ensure that the ICAs they facilitate are safe and permanent. Regarding safety of placements, 100 percent expected professionals in RCs to monitor the family after the placement and 87 percent expect the agency to provide post-placement services. COO professionals also have expectations of PAPs: 83 percent required an application and 57 percent expected an in-person meeting before the placement is made. To increase the likelihood of permanency, 95 percent of professionals in COOs expected the RC agency to provide post-placement supports. Parents are expected to sign an agreement of permanency by 59 percent of professionals in COOs. In sum, the overwhelming majority of COO professionals represented in this survey have taken steps consistent with HCIA guidelines regarding ensuring safe and permanent placements.

### [Safeguards to Prevent Abduction/Sale/Trafficking](#)

#### **Legal Availability for Adoption**

**Determining legal availability.** COO professionals were asked what information constitutes sufficient verification of legal availability. Many indicated that documentation that the birth parents are deceased or otherwise unable to care for the child is sufficient (88%); of COO professionals, 59 percent said that there may also be documentation that no one else can care for the child to determine legal availability. HCIA professionals (38%) added that that other documents like publications in the newspaper or searches for birth parents constitute legal availability information. Among RC professionals, 82 percent said that documentation for legal availability includes information about birth parent death or inability to care for the child; 60 percent said that documentation that there are no other relatives to care for the child; 38 percent said other,” which includes responses like: *“abandonment documents, termination of parental rights documentation, consent of birth parents, police reports, investigations, etc.”* Both non- and HCIA-signatory COO professionals indicated in open-ended reflections on the HCIA that the outside and advance evaluation of a child’s legal availability and eligibility for adoption is one of the top benefits to the HCIA.

We then asked who is consulted in order to obtain the information used to document legal availability. Of COO professionals who responded, the most frequent response was that a local

government or community representative is consulted (as chosen by 82%). Additional statistics on consultation are presented in Table 5.6 below. RC professionals indicated they believe a state/ministry/government official is most often consulted for legal availability information (74%). However, there were differences in patterns reported from HCIA-signatory and non-HCIA-signatory COOs. All (n=15) professionals in non-HCIA-signatory countries indicated that birth parents or other relatives were consulted compared to only 41 percent of HCIA-signatory professionals. The consultation of birth parents and other relatives may reveal larger patterns of how children are coming into care in COOs.

**Table 5.6: Who is Consulted for Legal Availability Information?**

	COOs (% , n)	RCs (% , n)
Government or Community Representative	<b>82%</b> , 27	60%, 49
State/Ministry/ Gov't Official	73%, 24	<b>74%</b> , 60
Birth Parents/ Relatives	67%, 22	67%, 54
Staff Where Child Lives	61%, 20	59%, 48

How is legal availability documented? Comparable percentages of COO and RC professionals indicated that legal availability is most likely documented through a legal or government document, and next through a written but not legal document, and finally verbal information from an interview. RC professionals display similar opinions. Statistics comparing COOs and RCs can be found in Appendix B.

**Verification of legal availability.** Of COO professionals, 50 percent reported that they trust the information provided to them on a child's legal availability. The other half said they take steps to verify the legal availability information provided to them. When split by HCIA status, 67 percent of professionals in non-HCIA-signatory COOs indicated that they always verify legal availability documentation. In HCIA-signatory countries, however, only 35 percent reported verifying legal availability information; 65 percent trust the documentation they receive. Fifty-eight percent of professionals in receiving countries (n=49) stated that they verify legal availability information, and 36 percent (n=31) said the information provided to them is trusted. Thus, professionals in HCIA-signatory COOs are less likely to take the steps to verify legal availability documentation than their counterparts. Appendix B contains data on who verifies legal availability.

## **Independent and Private Adoptions**

Independent adoptions are those in which parents are approved to adopt in the RC and then travel to the COO to work directly with the biological family and/or professionals to finalize the placement; no Central Authority is involved. As a result, there are few protections in the COO for biological or adoptive families who make placement plans through this process. The lack of these protections places these adoptions at risk for unethical practices. Because the HCIA guidelines stipulate that countries' central authorities should oversee all ICAs, independent adoptions operate outside the treaty's purview. In addition, it calls for the elimination of independent ICAs (Hague Conference on Private International Law, 2008). In policymaker interviews (see companion report in Appendix A, Deoudes, 2013), evidence indicates that private and independent adoptions are now better regulated, while in open-ended reflections on HCAI benefits, adoption professionals indicated the prohibition of independent adoptions is one of the top benefits of the implementation of the Convention.

We asked professionals how common independent ICAs had been in the past five years. Professionals (n=48) in five RCs responded; independent adoptions did not take place in three of them. Six Hague-signatory COOs were represented by 11 professionals, who reported no independent ICAs. Four non-Hague-signatories were represented by four professionals; they also reported no independent adoptions.

Private adoptions are those agreements made directly between biological and adoptive parents. These placements are even more risky, as there are no home studies of adoptive families and there are no safeguards protecting biological parents. The HCIA also has called for the elimination of private adoptions (Hague Conference on Private International Law, 2008). We asked professionals about the occurrence of private ICAs in the past five years. Five countries were represented by 48 professionals. Professionals in two RCs reported no ICAs, whereas professionals from one RC reported that ICAs had occurred during this period. (Professionals from 2 countries were not certain.). Professionals from six Hague-signatory countries (n=11) reported that no private adoptions were made. Professionals from four non-Hague-signatory COOs (n=10) responded; two of them said private adoptions took place in their countries.

In sum, independent and private international adoptions are rare in both COOs and RCs. However, they continue to be practiced in the U.S.

## **Fraud Reduction and Achievement of HCIA Core Purposes**

We asked professionals if they thought the HCIA's implementation has reduced fraud in their countries, irrespective of their treaty status. We also asked if they agreed the HCIA had achieved its core purposes: a system that respects children's human rights, that ensures each ICA is in children's best interests, that gives legal recognition to all ICAs between convention



countries, that has cooperation between signatory countries, and that protects against sale or trafficking of children for ICA. Table 5.7 reports the findings.

Among HCIA-signatory countries, 71 percent of professionals in COOs (10 of 14) believed that the HCIA's implementation has reduced fraud. In contrast, 50 percent of professionals in RCs (35 of 70) believed that fraud has been reduced.

These different views between COO and RC professionals also were reflected in their responses about certain core purposes of the HCIA. A higher percentage of COO than RC professionals agreed the treaty "ensures that ICA is in children's best interests." A higher percentage of COO professionals also agreed the HCIA respects children's human rights. It is noteworthy that more than half of *all* professionals held this belief.

Professionals' responses about whether the HCIA has achieved other core purposes did not differ by whether they were from a COO or RC. Of all responding professionals, 73 percent agreed the treaty provides legal recognition of all ICAs between convention countries; 60 percent said it is a system of cooperation between Convention countries; and 61 said it provides protections against the sale or trafficking of children.

Among non-signatory professionals (n=13), less than one-third (31%) believed that fraud has been reduced in their countries. Less than half of respondents believed the HCIA had achieved four of its core purposes: only 17 percent said children's best interests are served; 25 percent said children's human rights are met; 31 percent said there is cooperation between signatory countries, and 46 percent said the treaty protects against the sale or trafficking of children. The only core purpose that half the professionals agreed had been met was "the HCIA provides for legal recognition of all ICAs between signatory countries." In sum, non-signatory COOs have not felt the positive impact of the HCIA implementation. This might not appear surprising, as these COOs have not been required to establish policies and practices to protect children and ensure ethical and legal ICAs. These data also suggest that signatory RCs and non-signatory COOs are continuing to engage in adoptions that don't protect children's best interests and human rights and that may be touched by abuses of the system.

**Table 5.7: HCIA Impact on Fraud and in Achieving Core Purposes**

		HCIA-signatory COOs	HCIA-signatory RCs	Non-HCIA signatory COOs
The HCIA has reduced fraud in (my) country:	Number responding:	n=14	n=70	n=13

	Yes	10 (71%)	35 (50%)	4 (31%)
The HCIA has created a system:	Number responding:	n=13	n=71-73	n=12-13
	That respects children's human rights	<b>9 (69%)</b>	<b>35 (50%)</b>	3 (25%)
	That ensures ICA is in children's best interests	<b>9 (69%)</b>	<b>30 (42%)</b>	2 (12%)
	Gives legal recognition for all ICAs between HCIA-signatory countries	10 (77%)	52 (72%)	6 (50%)
	Of cooperation between HCIA-signatory countries	8 (61%)	44 (60%)	4 (31%)
	That protects against sale or trafficking	9 (69%)	44 (60%)	6 (46%)

## Abuses in the Process

**Professionals on abuses.** One of our goals with the professional survey was to gain a better understanding of adoption abuses “on the ground.” We asked these questions primarily of RC professionals because we were concerned about the potential of incrimination for COO professionals. The specific data are presented in Appendix B. In sum, few RC professionals reported activities that might be perceived as abuses – for example, paying birth mothers to encourage relinquishment.

**Parents on abuses.** We also asked a number of questions of adoptive parents designed to understand abuses, and international adoptive parents’ understanding of them. We asked parents if there were any agencies or countries they avoided for fear of adoption abuses. Although 35% (n=370) said “yes,” there was an agency or country they didn’t work with, 53% (n=555) said everything seemed okay.

We then asked parents a series of questions about suspected abuses, whether they followed up on those suspicions, when they had concerns about them and whether they followed up on them. These data are presented in Appendix B. In summary, most parents did not suspect abuses. Those who did have suspicions reported that they tended to emerge during the adoption process. The most common suspicion was that a middleman had been paid. When

asked about concerns regarding the adoption, just over 50 percent were concerned about the child's health/personal history. Regarding possible financial abuses, we asked about donating money or being encouraged to do so. Just under half of all parents reported that they were encouraged or required to donate money to an agency or institution, but only six reported being told they could shorten their wait time with donations. Finally, we asked how certain after the adoption parents were that their child was legally available. Parents overwhelmingly were certain; however, about 6 percent had some uncertainty. Sources of this uncertainty varied; the most common answer was receiving specific information from a reliable source.

## Cooperation between States

### Collaborating with Professionals in Other Countries

Effective ICA depends on collaboration between professionals in COOs and RCs, which requires the establishment of good working relationships. Given the potential for abuses, the hallmark of professionals' relationships are trust and credibility. The HCIA emphasizes the importance of intercountry cooperation throughout its guidelines (Hague Conference on Private International Law, 2008; 2011). There are no specific guidelines on cooperation at the professional or agency level. If signatory countries work with non-signatory countries, the former are expected to apply the same rules and procedures. In short, although the HCIA does not directly apply to non-signatory countries, ICA between signatory and non-signatory countries should have the same protections as between signatory countries. In the majority of RC countries that participated in interviews, policymakers indicated that HCIA signatories are applying treaty guidelines to adoptions from non-signatory COOs (see Appendix A; Deoudes, 2013).

Professionals in COOs and RCs were asked a number of questions about how they work with professionals in other countries. Questions addressed HCIA/non-HCIA-signatories and confirmation of trustworthiness of others.

***Working with professionals in HCIA/non-HCIA countries.*** A notable difference emerged between professionals in COOs (n=22) and RCs (n=90) regarding the policy about completing an ICA with a non-signatory country. Just under one-third of COO professionals (32%, n=7) reported that they place children in non-signatory countries, whereas 45 percent (n=10) indicated they do not do so. In contrast, 94 percent (n=85) of professionals in RCs reported that they allow placements of children from non-HCIA-signatory countries. This difference is one example of the imbalance in flexibility with which professionals work – in RCs, professionals engage with COOs, irrespective of their signatory status. However, COOs are more cautious in where they place children, particularly those from HCIA signatories. Of HCIA-signatory COO professionals, 54 percent (n=7) said they do not place children in non-signatory countries. If RC

professionals are not applying comparable criteria and procedures to non-signatory countries, they risk being complicit in inequitable and possible unethical practices.

Appendix B contains data on professionals' responses about whether their country has a Central Authority. In sum, 80 percent of COOs and RCs report having at least one, and some have them at more local levels.

***Confirming trustworthiness of collaborators.*** We asked professionals in COOs and RCs a series of questions about the credibility of collaborators with whom they work and how they confirm credibility. Professionals in COOs and RCs alike reported (94%, n=95) that they have confirmed the credibility of the organizations with which they work. The remainder (6%, n=6) of professionals were not always sure.

We next asked professionals to check the different steps they take to ensure that they can trust their collaborating organizations. Table 5.8 reports responses regarding these steps. In general, professionals in COOs and RCs were consistent in the percentages who reported taking certain steps, but two notable differences emerged. Professionals from COOs (81%) were more likely to monitor the performance of the collaborating organization than were those in RCs (50%). In addition, 92 percent of professionals in COOs reviewed the policies and practices of collaborators, whereas only 68 percent of professionals in RCs did so. Based on these responses, professionals in COOs are more likely to actively evaluate their collaborators.

**Table 5.8: Steps Professionals Take to Ensure Credibility of Collaborating Organizations**

Response	n	%
They are accredited/licensed	91	97%
We review their policies and practices	70	70%
We have worked with them for a long time	63	67%
We monitor their performance	55	59%
Recommendations from third parties	46	49%
Already established personal relationships	43	46%
We review their financial records	26	28%

Fourteen professionals (15%) in RCs offered additional steps they have taken, which include relying on their Central Authority's feedback on the reputation of a given organization in a COO, and establishing inter-agency agreements.

Another area of notable difference was whether professionals collaborate with lawyers or other individuals who work independently within adoption. Almost 70 percent (n=20) of responding professionals in COOs (n=29) did not work with independent professionals, whereas 46 percent of responding professionals in RCs (n=83) did not. In turn, more RC professionals (54%) than COO professionals (31%) worked with independent professionals. When asked how they ensure the credibility of these individuals, professionals in both settings were similar in the steps they take. Table 5.9 reports statistical information on these steps.

**Table 5.9: Steps Professionals Take to Ensure Credibility of Individual Professionals**

Response	N	%
They are accredited/licensed	45	83%
We have worked with them for a long time	34	63%
Already established personal relationships	32	59%
Recommendations from third parties	28	52%
We are not always sure	10	20%

When we examined the findings about steps taken to ensure credibility, we found it noteworthy that fewer professionals take active steps to ensure the credibility of individuals than of organizations, often relying on established personal relationships. Fuentes and colleagues (2012) strongly urge that when children's lives are at stake, records be checked multiple times rather than relying on an individual's credibility.

### Reflections on the Hague Adoption Convention and HCIA Implementation

In this section, we draw on the open-ended comments of professionals about the HCIA's implementation. We asked several questions about benefits, challenges and recommended

improvements. Here, we discuss those comments that either were made by multiple individuals or that addressed ethics issues in adoption.

### **Benefits of HCIA**

Across our sample, adoption professionals indicated that the treaty has had three major benefits; those are in the areas of standardization and uniformity, ethics and oversight, and the rights of children. They indicated that the more-uniform procedures and intercountry recognition of procedures, legality and validity of adoption have generated these benefits.

Within the general category of standardization and uniformity, professionals in non-HCIA-signatory COOs suggested that the treaty's implementation has led to an increase in public opinion that the HCIA represents "best practice," and that even when countries are unable or unwilling to become party to the HCIA, many have begun to put in place some of its guidelines and standards. For example, when asked what were the top three benefits of implementation, one professional replied: *"More awareness of the tenets of the Hague Convention and that acting as if the country is Hague is best-practice. Awareness that movement toward a Central Authority may be best practice"*.

Professionals have commented that the adoption process has become more stable, consistent and predictable. In addition, some said the HCIA has led to the increased creation of, awareness of and adherence to agency adoption policies. This mirrors the perspective of policymakers that there have been increased requirements for adoption service providers, clearer guidelines, and greater transparency (See companion report in Appendix A; Deoudes, 2013). *"It has kept some unethical agencies away and caused more agencies to write policy and abide by them [sic],"* said one professional. Some indicated that with HCIA's implementation, there is more accountability of individuals, agencies, organizations and states working in ICA.

With regard to ethics and oversight, professionals have noted a decrease in individuals working in adoption and the elimination of some unethical individuals and agencies. This professional noted the HCIA *"eliminates the complication of individuals working on adoption in each countries [sic]"*. In addition, professionals indicated that there is a greater awareness of fraudulent behaviors. Individuals have also noted the increased financial transparency at certain points in the process. For example one professional said that *"there is transparency in the area of finances,"* and another said, *"The Hague has streamlined the financial process for what is due to the orphanages and when."*

Within the general category of children's rights, professionals also indicated an increased awareness of alternative options for unparented children, including domestic adoption and foster care. One of the top three benefits this professional listed included, *"Awareness of other*

*options for child - family preservation, reunification, foster care, domestic adoption.” This comports with the subsidiarity principle outlined in the HCIA.*

Other professionals cited the increased ability to place older children with their younger available siblings, as in this instance: *“It has allowed siblings over 16 yrs [sic] of age to be placed with their younger sibling/s who are being adopted.”* Keeping siblings together in intercountry adoption maintains their rights to live as a family. These more-specific instances are in accordance with the belief that the HCIA has increased work in the best interests of children and respect for their rights.

One important benefit articulated by professionals was the education of potential adoptive parents, as in this instance: *“It has instituted required pre-adoption training for adoptive parents.”* This is a significant benefit of the HCIA, and should be a piece of every ICA – whether or not the participating countries are HCIA signatories.

### **Problems of Implementation**

Professionals suggested that HCIA implementation has created three primary problems: a failure to respect children’s rights because increased costs and process-length mean longer stays in institutions; the sheer cost of implementation, particularly for small agencies and developing nations, raising concerns about ICA becoming “big business;” and differences in policies between countries complicate adoption processes and can result in loss of cooperation.

Under the general umbrella of children’s rights, professionals indicated problems with adoption practice created by the HCIA, specifically increases in time and costs. They said HCIA’s implementation has meant more paperwork for agencies and adoptive families. This growth, and verification of the greater paperwork, has increased the time it takes to process an intercountry adoption. One professional put it this way:

*The paperwork process causes a delay in travel for the adoptive parents. This is a critical pitfall to the adoptee. It takes about 2-3 months from the time the family and child are matched before the family can travel. This is detrimental for the children who are in institutions because this is additional time that the child is living in an institution instead of a family.*

Another professional echoed this sentiment, simply saying: *“There is a burden of bureaucracy that many times delays children from going to their families.”*

Professionals have indicated that valid paperwork often is checked and re-checked, creating bureaucratic redundancy and inefficiency that has a direct impact on the time a child spends living in institutional care. For example, a professional said: *“Redundant protocols delay placements; long term institutionalization is harmful to children.”*

Additionally, many professionals provided examples where an ultimate inability to re-verify documentation has led to children languishing in orphanages because their availability could not be appropriately verified. Not only have these children missed out on ICAs, but also they have often been unavailable for domestic placements. This professional's statement illustrates the situation: *"If documentation for a child cannot be found, he is unadoptable. They stay in orphanages until they age out or are put out."*

Children without proper proof of availability have no path to finding a family. In some cases, this occurs during the process of an adoptive placement, resulting in the loss of the placement for both the child and the family. Professionals also indicated that costs have increased for agencies required to submit and verify additional paperwork, and for adoptive families, resulting in fewer placements being made.

Many professionals lamented the sheer cost of implementing the HCIA. Some said that many respectable agencies were forced out of business simply because could not afford the special licenses and accreditations needed to participate in ICA in a HCIA-signatory country. For example, this professional responded:

*The cost factor and paperwork burden of becoming a Hague approved adoption agency (at least in the USA) is such a burden that only large big volume agencies can absorb the costs and time involved. Thus making adoption "big business" instead of personally designed for each family and individual child. Quantity of placements over quality of placements, to keep the business open!*

Professionals also indicated that many states struggled with the cost of successful implementation. Some professionals believe the lack of resources has led to an inability of countries to participate in ICA. This professional said:

*In many cases shuts down adoptions and creates havoc for gov'ts [sic] to ratify to the Hague when they clearly lack the resources to do so. In the meantime it is the children who are affected."* Another professional said: *"[The country has not acceded yet, but [COO] lacks much necessary infrastructure to follow the regulations.*

We also have responses from professionals indicating that while there is increased uniformity in adoption processes between countries, the processes are far from universal. This has led, in professional opinion, to difficulties between certain countries, organizations and agencies because differentially applied policies complicate the process and decrease cooperation. For example, one professional said:

*[I]f we are Hague accredited agency this should mean we are given permission to operate in any Hague compliant country without having to go through an entirely unique*



*accreditation process for each different country. What is the point of having Hague if this is the case? There is no uniformity.*

Another professional shared a similar sentiment, saying: *“Different countries have different ideas of what the Convention means, making placement between the US and the other country very hard sometimes.”*

Finally, there have been unintended negative consequences to HCIA’s implementation. Professionals indicated that due to centralization, corruption in the system sometimes is now higher up the chain of power. Whereas in the past corruption may have rested with an individual or peripheral player, now that adoptions have been centralized in many countries, if there is corruption, it’s at a much higher level in the system. For example, this professional said: *“now with all the Hague [sic], adoptions are run by ONE top government office, at the top level of government. They are SO far removed from the life of the orphans! Now the corruption is so high up those involved are untouchable!”* This observation is consistent with the findings of Fuentes and colleagues (2012), who document specific types of adoption corruption in several countries.

Certain countries now have difficulties with adoptions by children’s relatives. When a country has ratified the HCIA and centralized all ICA, many relatives of unparented children do not meet the country-specific requirements for adoptive parents. In these instances, even though children have living relatives who wish to adopt them, professionals are unable to make the placements due to restrictions on PAP eligibility. In other cases, the difficulty is created not because relatives don’t meet requirements, but because these adoptions operate through a different type of system in the COO. For example, this professional reported:

*Some countries, such as [COO], lack a system for allowing relative adoptions through the Hague Convention. This creates terrible problems for families who have an orphaned relative in [COO] living with other family members but terribly impoverished and/or overcrowded. I have heard from many aunts/uncles whose nieces or nephews are in [COO] with grandparents who have neither the finances, space, or [sic] other resources to raise the child. Yet the prospect of placing them in an orphanage is even worse. The fact that [COO] handles all relative adoptions in the judicial courts and are therefore ineligible under the Hague is hurtful to many of these families. We need to fix this problem in the system.*

This is a serious consequence and in direct opposition to the subsidiarity principle. Related to this, some professionals have indicated that the implementation of the HCIA has led to difficulty in maintaining connections between birth and adoptive families. In most signatory countries, adoptions are closed and many have specific rules and regulations about limiting contact between adoptive and birth families. While these rules and policies were clearly

intended to safeguard birth families from coercive pressures, it has often meant that adoptive and birth families are unable to establish connections during or after the adoption process. For example, one professional said one of the problems with the HCIA was that it *“eliminated the ability for a child to have connection to their birth parent,”* and another recommended that there be *“more thought on how adoptees can have interaction/information on the birth parents in Hague countries.”*

Finally, one of the important criticisms of the HCIA is the lack of enforcement and consequences for failing to uphold the Convention. Professionals have lamented the lack of “teeth” when countries do not adhere to requirements, as in this comment: *“Fraud can still happen and the Hague has no ‘teeth’ on the countries that do not adhere to the agreements.”* Related to this, professionals have also had difficulties with the lack of common problem-solving resources among HCIA-signatory countries.

### **Recommended Improvements for HCIA**

The top responses when asked what could be done to improve HCIA included ensuring cross-country consistency (e.g., some suggested the creation of a model of implementation), the importance of beginning the process as early as possible to reduce time children spend in institutions, and general reductions of costs and time associated with every step in the process, including meeting accreditation requirements. As can be seen from the following response, implementation is an important issue for countries participating in ICA:

*That any developing country who signs the [HCIA] be provided technical assistance to implement it effectively. That an implementation model be developed and applied to each country, with a training model that is provided by the Hague. That the [HCIA] be used to implement effective adoption procedures as early in a child's life as possible, not to impede or close down adoptions. That no country can sign onto the [HCIA] without an effective implementation model.*

Professionals suggested many creative improvements to both the HCIA and adoption practice. With regard to the birth families, many recommended mandatory counseling for first parents considering adoption. They also suggested cultural changes, including decreasing stigma for families needing assistance to raise their children, decreasing stigma on unwed/single motherhood, and encouraging preservation and reunification.

With regard to the children themselves, many recommended faster determination of legal availability and less time spent searching for birth parents who had abandoned children. Many professionals recommended that all determinations of availability be made by Central Authorities. Professionals all around recommended increased information on available children – legal availability, family histories, medical records, more-recent photos of them. They

recommended standardization of medical assessment and record-keeping, better training for professionals who make medical assessments and who care for children, whether in foster or institutional care. Finally, many professionals were concerned about the time children spend in institutional care and ways to best reduce those periods. These types of recommendations included mandatory reporting to The Hague on how long it takes to process an adoption. For example, this professional summarizes improvements to timing issues in the system:

*Funding to help countries centralize their adoption systems so that intercountry adoption can remain an option for children without families. Supporting laws that allow children who are abandoned/relinquished to be placed domestically or internationally at earlier ages. Mandatory reporting on how long it takes a Hague country to place a child into permanent care.*

Many professionals and adoptive parents also suggested that there be more encouragement of meetings between adoptive and birth families. Professionals also suggested a standard evaluation of adoptive families. Many U.S. adoption professionals recommended a review of home-study practices and universal requirements and procedures for professionals conducting home studies. In a similar vein, many recommended increased attention to domestic adoption encouragement and allowing foster families the first opportunity to adopt. Some professionals reporting that while many domestic families wished to adopt, they were prohibited from doing so because of requirements set forth for ICA families, or the sheer costs associated.

A great number of professionals made recommendations for better implementation. These included developing models of implementation for new signatory countries. Professionals suggested that receiving countries assist with financial resources, as well as with training of professionals and models of best practice and implementation. They also recommended greater consistency. Many indicated that licensing and accreditation should be universal once sufficiently established, so that professionals do not have to take special steps depending on the country they are working with.

Finally, many professionals had opinions about the financial aspects of the adoption business. A number of them recommended that adoption be outright non-profit, or that orphanage fees and mandatory donations be reduced if not eliminated. Policymakers have identified this as a remaining challenge to HCIA implementation as well (see companion report in Appendix A, Deoudes, 2013).

## Summary

In the parents' and professionals' responses, we see a disconnect regarding HCIA's implementation. Although it is intended to protect adoptive parents, among others, they rarely consider what it means to adopt from a HCIA-signatory country, giving priority to personal (e.g.,

which countries' criteria they meet) or altruistic concerns (such as which countries have the most children in need of permanency). Across professionals' responses to open-ended questions, several themes emerged. First, effects – whether benefit, problem or recommendation – could be identified at multiple ecological levels. Macro-intercountry impact was evident in perspectives regarding cooperation between countries: COOs saw less benefit to such cooperation than did RCs. Professionals noted that certain nations (typically RCs) take the lead in determining what is official and accredited, an observation corroborated by a leading researcher on ICA (Selman, 2013c). In addition, professionals noted that RCs tend to have disproportionate power in ICA processes, an observation noted by Fuentes, Boéchat & Northcott (2012). For a more specific example, see companion report in Appendix A (Deoudes, 2013) that addresses the pressure from RCs on COOs to send children to meet demand.

Macro-intracountry impact was reflected in comments regarding new policies (e.g., greater transparency and uniformity) and differential enforcement of policies (e.g., some unethical agencies have closed). Local impact on agencies and families was very clear in comments about increased paperwork and costs, as well as about the need for more information about children. Second, implementation and enforcement issues were commonly cited, including that there was inconsistency across and within countries, legal placements sometimes were stopped, and some unethical agencies were eliminated. Finally, unintended consequences were identified: children living longer in orphanages, corruption moving higher up the chain, relative adoptions being inhibited.

## VI. OTHER NOTABLE FINDINGS

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**A**cross the responses of professionals and parents, certain findings focused on issues regarding the ethics of the ICA process, children's human rights and the degree to which they are being safeguarded, and biological connections for adoptees. Some issues were raised by a number of respondents, while others were cited by only one or a few. We identified these issues not by the number of respondents, but primarily by the ethical questions raised. We will address each of these issues in this chapter.

### Ethics of Process of ICA

#### Verification of Legal Availability

Professionals were asked how they verify information about children's legal availability for adoption. Half of those responding (n=15) reported that they take various steps to such verify, but the other half said they trust what is given to them, in effect taking no further steps to verify it. This is significant particularly because when asked about how they obtain information

about legal availability, 50 percent of those respondents indicated that it is only provided verbally. This process is not consistent with the HCAI or with ethical practice. In fact, Fuentes, Boéchat & Northcott (2012) call for more thorough review of all forms of documentation of legal availability, noting that professionals should “dig deeper into the child’s background and not simply accept paperwork at face value” (p. 103). Children in need of permanency are owed careful, comprehensive verification of their availability for adoption.

### **Corruption Higher Up the Chain**

When asked about problems created by HCAI’s implementation, several professionals noted that adoption abuses and corruption have moved from the practice level into administrative levels. One professional in a COO observed, “*Corruption is now at a higher level of government officials, if something is exposed they just take out a lower level official who is usually doing what they are told by someone in higher authority!*” This perspective, combined with other comments about the lack of transparency in adoption practice, raises questions about ethical functioning of some professionals in administrative roles. Fuentes, Boéchat & Northcott (2012) note numerous instances in different countries of government officials, lawyers and police officers receiving bribes in order to allow falsification of birth certificates and other needed adoption paperwork, or to approve unethical adoptions.

### **Parents’ Perceived Role in Adoption Abuses**

As parents shared their experiences in their responses to our questions, a powerfully poignant theme emerged: that of parents retrospectively learning that their adopted child might not have been legally available. In several of these cases, parents struggled with the knowledge that they might have been complicit in an illegal or unethical adoption. One parent shared,

*Our children are incredible and we love them desperately [sic]. But our family was built on a lie and their losses. The birth family must have been incredibly desperate -- the solution should have been keeping THEIR family together. I'm sorry I didn't understand that before and I'm sorry that all the \$\$\$ of adoption doesn't go into family preservation instead.*

Two recommendations already made, if implemented, could reduce the chances that parents unwittingly collude in unethical adoption practice: more comprehensive verification of the child’s legal availability and, in cases where biological families are available, allowing contact between PAPs and biological families after the biological parents’ fully informed, voluntary consent to an ICA to enable the personal confirmation.

### **Mechanism for Redress for Victimized Triad Members**

In suggestions for improvement of treaty implementation, at least one professional called for a mechanism to redress victimization of any party to intercountry adoption – adopted person, birth family member or adoptive parent. Fuentes and colleagues (2012) briefly acknowledge the legal and psychological consequences of such abuses, noting that all concerned, especially families of origin, need support. We recommend that the HCAI require the development of mechanisms for redressing victimization. Two possible options are for bilateral mechanisms between specific COOs and RCs or for action at the global level. Bilateral mechanisms would be more consistent with the current HCAI, but they would put a disproportionate burden on COOs, and researchers have noted that the high demand in RCs for babies creates conditions in which adoption abuses are more likely to occur (Fuentes et al., 2012; Roby, Rotabi & Bunkers, 2013). Thus, the burden for redressing victimization must be shared. This is one critical area in which adoption practice needs to be uniform across all ICAs; moreover, a number of professionals called for common legislation, policies and/or problem-solving for all participants. We recommend that global policies be developed regarding victimization.

### **Issues Affecting Children's Human Rights**

#### **Prohibition of Relative Adoptions in Some Countries**

Relatives can no longer adopt children in some COOs, according to some professionals, who viewed this development as a negative consequence of the HCAI's implementation. This appears to be due to the eligibility requirements for prospective parents adopting through HCAI procedures, which certain relatives of unparented children cannot meet. When policies or procedures such as these are instituted, they are not in children's best interests and do not safeguard their human rights.

#### **Within-Country Inconsistency in ICA Participation**

Several such inconsistencies were cited. The most concerning, according to professionals' reports, was that some orphanages in signatory countries are allowed to participate in ICA, whereas others are not. The possible implication of this inconsistency is that children who are fortunate enough to be in certain orphanages are made available to adopting families, but those in other orphanages do not have comparable chances of being placed through ICA and, as a result, can languish in institutions. Some research suggests that this takes place not only in ICAs, but also domestic placements. Fuentes, Boéchat & Northcott (2012) note that many COOs have insufficient mechanisms to enforce policies and, as a result, well organized adoption networks, while legal, can monopolize ICA processes and the number of children placed.

### **Lack of Information on Birth Parents**

Professionals in COOs were asked what kind of information they collect on birth parents. Professionals reported on consent to adopt, birth records, identifying information, the child's health or developmental history, family medical history and prenatal care. However, in at least one country, no information of any kind is gathered from birth parents. The lack of any information not only makes it difficult for adoption professionals or adoptive parents to address children's needs, but also is not consistent with the HCAI and does not support children's human rights.

### **Support for Children and First/Birth Families**

In their comments to open-ended questions, several adoptive parents said it is important to provide support to children and biological families so that they can remain together. One parent noted, *"It is never a good or happy thing when a birth family and an entire birth country cannot adequately care for a child. Better to provide support to families & countries rather than take their children."* A bill before the U.S. Congress, the Children in Families First Act of 2013 (CHIFF), includes support for the development of child welfare systems and for original families to care for their children (U.S., 2013)

### **Making Adoption Affordable for Local Families**

Several professionals and families urged that domestic adoption be made affordable for families in COOs. One professional noted, *"Make adoption affordable 1st for the local families, at the standard of living within the country where the child resides, particularly at the local level."* Support for domestic adoption would enable COOs to function more consistently with the subsidiarity principle of the HCAI, which prioritizes domestic options for permanency for children.

### **Biological Connections for Adoptees**

Several parents said they had received follow-up phone calls from their adoption agencies notifying them that their child had a biological sibling who had become available for adoption. These parents were asked if they would consider adopting the sibling and they agreed to do so. These circumstances provide important opportunities for adoptive families and the field of intercountry adoption to support biological connections. For their part, families need to be in a position to be able to include an additional child in their lives. For the field of ICA, gathering information about birth families, greater transparency in paperwork that would enable easier tracking of biological relations for children in need of ICA, and making it financially possible for adoptive families to take on another child would facilitate these placements.

## VII. SUMMARY, IMPLICATIONS AND RECOMMENDATIONS

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The field of intercountry adoption has made significant progress in the decades since its inception. This progress includes the HCIA - an international treaty that provides guidelines regarding the processes to achieve permanency for children within countries of origin, regarding determining children's legal availability for ICA, and regarding ICA processes. There is greater awareness of and sensitivity to the potential for abuses in ICA, as well as the impact of these abuses on everyone concerned, in particular on families of origin. Children with special needs are finding safe, permanent homes. Countries of origin are developing policies for domestic adoptions, making it possible for children to find permanency within their culture of origin. As a result, we have seen an increase in legal, safe and appropriate adoptions for children for whom no permanent options exist to be raised in their original families.

The voices of professionals, parents and policy makers in the field of intercountry adoption are a testament to this progress. Through their words and experiences, we have learned that there is greater transparency and standardization, illegal activity has been reduced, and prospective adoptive parents are more likely to receive pre-placement preparation. Although contact with families of origin introduces complexities that need to be managed, adoptive parents nevertheless report that such connections can be beneficial for their children and their families – and, in some cases, can ensure fully informed voluntary consent to adoption. Domestic adoption is increasing in some COOs and more children with special needs are finding permanent homes through ICA.

At the same time, these voices also sound a clarion call for improvements. Earlier in this report, we discussed findings and related suggestions for improvements. Here, we summarize and organize the recommendations in four broad themes: children's rights, ethics, intercountry cooperation, and what should be routine adoption practice.

### Children's Rights

The HCIA calls for adoption practices that safeguard all children's human rights. Four themes emerged in our research that need attention so that this goal can be met.

Support for biological families. Children's human rights will be optimized when there is global support for maintaining biological families. It is clear that there will be children whose parents have died or suffer individual conditions that make it impossible for them to provide safe, stable home settings (e.g., debilitating mental illness, etc.). Gibbons and Rotabi (2012) suggest that when biological parents have difficulty meeting children's needs, approaches should be



considered such as family group conferencing that includes extended family members in problem-solving. In these circumstances when supports or extended family alternatives prove ineffective, swift placement in family-based care leading to adoption is optimal. Poverty should not be a reason for ICA, however (Fuentes et al., 2012; Roby, Rotabi, & Bunkers, 2013; Smolin, 2007). Thus, countries that participate in ICA should work collaboratively to find creative ways to provide support to biological families in COOs so that as many children as possible can be raised with safety, stability and sufficient resources in their families of origin. Possible pathways include developing a global collaboration that provides funds to COOs to support biological families, or bilateral collaborations between specific COOs and RCs – for example, adoptive parents might pay into a fund that would provide services to biological families (e.g., Dillon, 2003). In the latter case, RCs adopting children from non-signatory countries would be expected to develop comparable collaborations.

### **Country of Origin Care and Assessment**

All children have a human right to care that facilitates their development (UN Convention on the Rights of Children, CRC; 1989). For children who lack family-based care, the provision of competent caregiving is essential. Such care should meet global standards (for example, those set forth by the CRC). Competent caregiving relies on comprehensive assessment of children's functioning. When children enter out-of-home care, they should receive developmentally based assessments of all domains of functioning so that daily care, as well as needed therapeutic care, can be provided. Such caregiving and assessment would reduce the risks for trauma to which so many children living in institutions are subjected. As a result, delays in children's development would be minimized or averted, thus improving their well-being and maximizing their potential. This may increase the likelihood of adoptive placement either domestically or internationally, but is crucial for the long-term welfare of children wherever they reside.

### **Support for Domestic Adoption**

A defining principle of the HCIA is the principle of subsidiarity, in which all efforts to create permanency for children in their countries of origin must be exhausted before ICA is considered. Since becoming signatories to the treaty, countries are increasingly focusing on domestic adoption (e.g., China, Romania). In order for COOs to be able to fully observe the subsidiarity principle, additional supports are needed for domestic adoption. Given the definitive findings on the impact of institutionalization and lack of permanence on children's development, COOs should set limits on the amount of time spend searching for a domestic placement.

## **In-Country Consistency in Implementation of Hague Procedures**

The HCAI's effectiveness lies in consistent implementation, especially within countries. Parents and professionals pointed to multiple areas in which policies are implemented or enforced inconsistently. We identified an important area with our discussion of the fact that some orphanages are not allowed to participate in ICA in some signatory countries of origin. Inconsistencies in implementation were identified in RCs as well, including the comprehensiveness of accreditation site visits.

The principle of consistency also should be applied to RCs that collaborate with non-signatory COOs in ICA. There is wide variation in the safeguards and processes for ensuring that children are legally available when RCs work with non-signatory COOs. Ideally, placements should be discouraged from non-signatory countries, particularly independent and private ICAs, given the increased risk of abuses where there are no internationally approved safeguards in place. Moreover, the observation by a U.S. policymaker that there have been no dissolutions of ICAs from HCIA-signatory countries (Deoudes, 2013) is a critical indication of the importance of working with HCIA COOs. Apparently those dissolutions that have taken place, including the high-profile cases, have been from non-HCIA signatory countries (e.g., Vasilevva & Hall, 2010).

For countries that do not accept placements from non-signatory countries, having consistent policies and procedures across signatory and non-signatory COOs enables RCs to ensure that each child's human rights are met. Although it ratified the HCIA years after other major RCs (in 2012), the U.S. recently took steps to ensure consistent expectations of adoptions across COOs. Signed by President Obama in January 2013, the Intercountry Adoption Universal Accreditation Act of 2012 will take effect in July 2014 and will require accreditation for all U.S. providers of ICA services, irrespective of the COOs with which they work. Achieving greater consistency will move countries to more equitable implementation of HCIA in adoption practice.

## **Increased and Improved Preparation and Support for Adoptive Parents**

Pre-adoptive parents should receive more and better preparation from adoption providers in two areas. First, given the number of children who have a special need identified at some point in their development, all PAPs should be expected to consider their capacity to parent a child with such needs. Crea (2012) offers a home study model [Structured Analysis Family Evaluation] as a standardized approach to assessing prospective adoptive parents that might serve ICA practice. Once approved to adopt, prospective parents should be prepared for the likelihood that their children will have a special need identified, whether in the COO or in the RC. Such preparation should include attention to COO care and assessment. PAPs also should consider their health insurance and whether it provides coverage for the kind of specialized treatment and care typically needed by formerly institutionalized children, as well as the amount of family financial resources and extent of specialized therapeutic resources locally available. Finally,

PAPs should be prepared to advocate for post-placement services. In addition, adoption service providers should educate all PAPs about birth parent contact, the complexities that it brings, and the benefits that other adoptive families have found.

### Ethics of ICA Processes

Although the majority of ICAs likely are implemented ethically, there are three areas which, if improved, would help ensure more ethical practices. These areas include birth parent contact, more transparent processes of verification, and mechanisms for addressing victimization of triad members in adoption abuses.

#### **Birth Parent Contact**

For those children whose biological parents or family are living, having contact is important. Although likely a complicated process, all parties stand to benefit from BPC. Contact after the decision to relinquish and just before or at placement has the potential to reduce adoption abuses. Biological parents would be able to provide confirmation that they gave fully informed and voluntary consent to adoption, and that they understand the permanency associated with adoption. Adoptive parents would be able to confirm that the placement was ethical and legal, which can allay anxieties about unwittingly colluding in unethical practices. Post-placement contact over time can provide important connections not only to countries of origin, but also to families of origin, which can aid adoptees' identity development (e.g., Marre, 2009).

#### **More Transparent Processes of Verification**

Increasing the transparency of verification procedures (and reducing the number of placements in which verbal confirmation is sufficient) would be an important step forward in reducing unethical practices. Allowing verbal consent opens up numerous possibilities for unethical practices. One mechanism to enhance transparency could be the review of processes of documentation and verification of legal availability of all ICAs by independent panels of adoption experts (Roby, Rotabi, & Bunkers, 2013).

#### **Mechanism for Addressing Victimization**

Developing policies for redress of victimization could meet the needs of any parties to adoption who have been harmed by documented abuses. In addition, designing these policies at the global, rather than bilateral, level could help reduce the imbalance of power that exists between receiving countries and countries of origin (Fuentes et al., 2012).

## Intercountry Cooperation

The HCIA calls for intercountry cooperation. In addition to the specific adoptions in which countries have engaged, RCs can provide meaningful support to COOs in order to enhance the treaty's implementation. There are multiple areas of education and training that are warranted. Policymakers should be educated on children's early development and the effects of institutionalization on brain development and attachment so they have foundational knowledge to guide policies regarding out-of-home caregiving. Caregivers also should receive training on these subjects, as well as on caregiving approaches that promote healthier development. Support professionals need training in early and appropriate assessment procedures in order to provide more accurate and timely evaluations of children in out-of-home care. For example, Sweden has several collaborations in which its Central Authority supports the training of institution staff in Ecuador, and the development of guidelines for institutional care in India (Fuentes, Boéchat, & Northcott, 2012).

In addition to education and training, equipment and resources for caregiving and assessment are needed, too. RCs also should provide consultation and guidance for COOs in the establishment of systems that reduce or eliminate institutionalization. Some initiatives already are underway; in The Way Forward Project, the U.S. Congressional Coalition on Adoption Institute convened panels of international experts to identify and address challenges confronting governments in six African countries that were working to design systems that would promote family-based care (CCAI, 2011).

In sum, because countries of origin overwhelmingly have fewer resources and less-developed child welfare and adoption systems – and because they often distrust the motives of adopting nations – the Adoption Institute recommends that agencies, NGOs and governmental entities in more-affluent countries (into which children are adopted) offer more training, education and other means of improving those systems, while also enhancing knowledge about the negative impact of institutionalization. This approach is intended to simultaneously improve outcomes for children, whether or not they are adopted, and to build trust so that countries of origin feel increasingly confident about allowing intercountry adoption.

## What Should Be Routine Adoption Practice

The evolving improvements in adoption practices that have been facilitated by the HCIA can be further enhanced. Children will be best-served when RCs provide support and consultation to COOs so that all children can experience family-based care while permanent solutions that promote healthy development are sought within birth families, country of origin, and then through ICA; when better-trained professionals in COOs deliver competent caregiving and assessments, and maintain better records about biological families; when comprehensive evaluations are conducted of all children placed for ICA shortly after placement and upon

entering receiving countries so that adoptive parents can obtain appropriate support services; when better-trained professionals in RCs provide more pre-placement support for adoptive parents regarding birth parent contact and potential special needs; and, where possible, when biological siblings who become available for ICA are placed with the same families.

Toward these ends, and to promote greater intercountry and global collaborations, we propose that high-level policymakers and experts meet to discuss what is happening and how to take steps forward. The aims of such a convening would include: building consensus on best practices; developing monitoring and evaluation standards for international and in-country oversight; generating additional, actionable ideas for how receiving countries can provide funds, supports, technical assistance and consultation for the development of systems of family-based care, necessary education, training, supports and services, as well as other ways to build trust and relationships in countries and countries of origin; and, more broadly, improving ICA policy and practice.

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## APPENDIX A

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### **Policymaker Interviews**

#### **EXECUTIVE SUMMARY**

##### **The Hague Convention**

As a legally binding multilateral treaty, the 1993 Hague Convention marked a watershed moment in intercountry adoption (ICA), seeking to ensure that “intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights;” a system of cooperation among the States is created to comply with the safeguards that would prevent “the abduction, the sale of, or traffic in children;” and to establish recognition of intercountry adoptions. It also recognizes that children “should grow up in a family environment;” States “should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,” and “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.” Because some countries have not ratified the Convention and some are crafting, amending and/or implementing domestic laws, and because the number of intercountry adoptions is plummeting even as large numbers of children live without parents or families, it is imperative to understand countries’ ICA policies.

##### **Central/Adoption Authority Interviews**

Interviews with 19 professionals at Central and Adoption Authorities were conducted to understand country of origin (COO) and receiving country (RC) perspectives and approaches to giving effect to the Convention, as well as to see what challenges remain to be addressed and best practices have been identified so ICA is in best interests of children. The countries are: 7 COOs (Colombia, India, Latvia, Lithuania, Nigeria (Lagos State), the Philippines and Poland) and 12 RCs (Australia, Belgium, Canada, Denmark, Finland, Ireland, Norway, Spain, Sweden, Switzerland, the United Kingdom, and the United States). Taken together and individually, themes and patterns across countries are useful to understand Convention implementation. All of the interviewed RCs and COOs (with the exception of Nigeria) have ratified the Convention.

##### **General Findings**

As would likely be expected, in general COOs and RCs reported that the Hague Convention facilitated the development of national frameworks and laws, clearer rules, streamlined processes, and/or increased cooperation among COOs and RCs. COOs identified very few problems associated with implementation of the Hague Convention; and some, such as Latvia and Poland, did not identify any. Similarly, most RCs did not list many challenges to Convention

implementation. A number of COOs and RCs recommended or indicated that guidance would be helpful to facilitate applying the more nuanced complex principles, such as subsidiarity.

### **Best Interests of the Child Standard**

Overall in recent years -- and as intended by the Convention -- there has been increased incorporation of children's best interests and subsidiarity principles in both COOs and RCs. Likely at least in part due to these developments, there also has been more focus on encouraging domestic adoption in COOs. A number of countries observed more domestic adoption in COOs and fewer intercountry adoptions, though generally International demand outpaces domestic interest for children. RCs have also experienced decreases in domestic adoptions, and with the exceptions of the U.K. and U.S., have very few. Relatedly, placements of children with "special needs" with international families have been rising, though many RCs do not distinguish among types of adoption in their recorded statistics.

Perhaps contrary to popular perception, interviewees indicated that few child placements in COO temporary care stem from poverty and many COO governments have support systems in place to assist struggling families. Most COOs have policies discouraging institutionalization of children, but cultural norms in many COOs do not favor adoption from the child welfare system.

In general, countries outlined few trials in implementing the Convention's best interests of the child standard. Three of seven COOs identified negative implications. A handful of the twelve RCs likewise noted some downsides, and also pointed out remaining challenges in thoroughly applying the subsidiarity standard.

### **Safeguards to Prevent Abduction/Sale/Trafficking**

Several COOs stated that Convention implementation has strengthened safeguards that help reduce fraud, corruption and trafficking. RCs also found benefits of safeguards, particularly around private and independent adoptions. COOs and RCs alike have circumscribed private and independent adoptions, if not prohibited them. Many RCs also stated that with Convention implementation, transparency mitigated fraud and corruption and some said that accreditation addressed fraud and corruption.

No countries reported negative implications of putting in place safeguards against abduction and trafficking. A handful, however, noted remaining challenges to ensure full implementation, primarily around regulating financial aspects of adoption, such as costs, fees and donations.

### **Country Cooperation**

Most COOs and RCs responded that the Convention resulted in more cooperation among countries with which they have adoption partnerships. COOs and RCs alike also mentioned country non-Convention status as an issue. In practice, many RCs incorporate Hague rules for

adoption processes in non-Convention countries. Three countries mentioned obstacles to Convention compliant ICA around the frequency and ease of mobility in Europe.

### **Central Authorities and Accredited Providers/Bodies**

Countries primarily discussed the role their Central Authority plays in ICA, in particular whether it plays an accrediting entity or service provider role, and what relationships it has with those bodies. They also noted how many accrediting entities they have (typically very few) and the number of authorized providers (in many cases, also only a handful). Countries with federal systems of government also noted the interplay between federal and state/regional agencies. COOs have found only a couple of challenges with Convention competent authorities. A few RCs indicated that some COOs' transition to Convention status has been slow and uneven, thus creating some cooperation issues.

### **Recommendations**

The Hague Convention has been in force for nearly 20 years and has been ratified by 90 countries. Research and interview responses indicate that some challenges remain and, in some cases, safeguards may be inadequate as implemented. It is incumbent on policymakers, practitioners and funders to increase efforts to place children without homes in permanent families as expeditiously as possible, in conformity with the Convention's best interests of the child standard and subsidiarity principle.

To that end, and based on COO and RC interview responses and comments, recommendations for consideration in improving Convention and domestic policy implementation for COO and RC Central Authorities, non-Hague Child Welfare Ministries, as well as multilateral institutions, such as UNICEF and the Hague Permanent Bureau, include:

- Increasing independent international oversight and enforcement of country Convention implementation to identify and rectify noncompliance,
- Developing standard Convention monitoring and evaluation standards for international and country review and assessment of accrediting entities and bodies/providers,
- Establishing efficient channels of communication to report what works, what doesn't and complaints, between and among Central Authorities,
- Convening countries (COOs and RCs that have ratified and are preparing to ratify the Convention) to identify challenges and solutions,
- More clearly defining standards around subsidiarity, informed birth parent consent, costs/fees/donations, recordkeeping (around communication with birth families, and pre- and post-adoption reporting on children),



- Identifying and sharing of best practices through specific case studies published by an independent, expert body,
- Improving COO recordkeeping (including birth registrations) of the numbers of children in need of placement and their circumstances,
- Including family care in the best interests of children and in conformity with Hague principles as an objective of the Sustainable Development Goals (successors to Millennium Development Goals),
- Encouraging receiving countries to coordinate national interagency policy and funding for child welfare infrastructure and development in countries of origin,
- Developing models for COOs to build child welfare infrastructure to enable foster care versus institutionalization for temporary care and domestic adoption,
- Creating an international funding mechanism to assist COOs in building child welfare systems (similar to funds that address global health issues, e.g., Global Fund to Fight AIDS, Tuberculosis and Malaria), and
- Explore establishing Development Impact Bonds<sup>7</sup> or cash-on-delivery<sup>8</sup> official development assistance for child welfare infrastructure funding in COOs.

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<sup>7</sup> Development Impact Bonds “provide upfront funding for development programs by private investors, who would be remunerated by donors or host-country governments—and earn a return—if evidence shows that programs achieve pre-agreed outcomes.” Center for Global Development, <http://www.cgdev.org/initiative/development-impact-bonds-0>.

<sup>8</sup> With cash-on-delivery (COD) assistance “donors would pay for measurable and verifiable progress on specific outcomes.” COD “link[s] payments directly to a single specific outcome, allowing the recipient to reach the outcome however it sees fit, and assuring that progress is transparent and visible to the recipient’s own citizens. These features rebalance accountability, reduce transaction costs, and encourage innovation.” Center for Global Development, <http://www.cgdev.org/initiative/cash-delivery-aid>.

## POLICY CONTEXT: THE 1993 HAGUE CONVENTION BACKGROUND<sup>9</sup>

Nearly one million children have been placed with families through intercountry adoption<sup>i</sup> (ICA) in the last six decades. From World War II to the 1970's, the practice grew to significant numbers. In 1971, the World Conference on Adoption and Foster Placement addressed "[t]he divergent views countries held on intercountry adoption, especially in relation to the best interest of the child principle" and in December 1986, the UN General Assembly adopted the *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*. In large part because it was a non-binding declaration, however, "the factual impact of this document was negligible."<sup>ii</sup>

Policymakers realized significant human rights and legal issues resulting from intercountry adoption remained and required a multilateral approach.<sup>iii</sup> Thus, the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention or Convention) was drafted under the auspices of the Hague Conference on Private International Law, an intergovernmental organization of 74 countries and the European Union,<sup>10</sup> "the purpose of which is 'to work for the progressive unification of the rules of private international law.'"<sup>iv</sup> The Convention establishes more detailed requirements to implement the general ICA standards outlined in the 1989 UN Convention on the Rights of the Child.<sup>v</sup>

As a legally binding multilateral treaty, the 1993 Hague Convention marked a watershed moment in ICA in seeking to ensure that "intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights;" creating a system of cooperation among the States to comply with the safeguards that would prevent "the abduction, the sale of, or traffic in children;" and establishing recognition of intercountry adoptions.<sup>vi</sup> It also recognizes that children "should grow up in a family environment;" States "should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin;" and "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."

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<sup>9</sup> The Donaldson Adoption Institute would like to acknowledge and thank all of the professionals who generously provided their time and expertise during interviews (see Appendix 1 for the names and titles of country Central/Adoption Authority professionals, all of whom consented to having their information listed). We also want to thank Adoption Institute interns, Carly Traub, Abby Schuster and Julie Guest, who provided invaluable research and analysis for the project. Additionally we are extraordinarily grateful to our reviewers for their contribution of time and expert input: Laura Martínez-Mora, Principal Legal Officer, Hannah Baker, Senior Legal Officer, Hague Conference on Private International Law; and Sarah Mraz, Director of International Programs, Wide Horizons For Children, Inc.

<sup>10</sup> It is possible for a State to become a Party to the 1993 Hague Convention without being a Member of the organization of the Hague Conference. As of October 23, 2013, 30 non-member States of the Hague Conference are parties to the 1993 Convention.

The Convention sets forth four “general principles that should be borne in mind when developing legislation, procedures and other measures to implement the Convention:”<sup>vii</sup>

1. “Ensuring adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law,” including:

- The subsidiarity principle that “a child should be raised by his or her birth family or extended family whenever possible. If that is not possible or practicable, other forms of permanent family care in the country of origin should be considered. Only after due consideration has been given to national solutions should intercountry adoption be considered.”<sup>11</sup>
- Non-discrimination, that “children who are the subjects of national or intercountry adoption should enjoy the same rights and protections as any other child,”
- Ensuring a child is “adoptable,” the meaning of which and criteria for “will be established by the national law of each Contracting State,”
- Collecting and preserving “As much information as possible about the child’s origins, background, family and medical history,” and
- The child is matched with a suitable family.

2. “Establishing safeguards to prevent abduction, sale and trafficking in children for adoption,” including:

- Protection of families from “subtle forms of exploitation, and protective measures ... to prevent undue pressure on, or coercion, inducement or solicitation of birth families to relinquish a child,”
- Combating abduction, sale and trafficking in children,
- Ensuring that proper, voluntary, informed consents from legal custodians/guardians are given (without inducement or solicitation), including birthmothers’ consents after the births and children’s consent, when applicable, and

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<sup>11</sup> Professor Charlotte Phillips notes in a July 2013 article, “Intercountry adoption - controversies and criticisms,” that since “in the text of the Convention no reference is made to non-family based care – residential care – as an alternative, intercountry adoption is evidently ranked above this form of alternative care and is therefore – contrary to the tenets of the CRC and the ACRWC [1989 Convention on the Rights of the Child and 1990 African Charter on the Rights and Welfare of the Child] – not recognised as a measure of last resort.” Published by the International Association of Youth and Family Judges and Magistrates, available at [http://www.africanchildinfo.net/index.php?option=com\\_sobi2&sobi2Task=sobi2Details&sobi2Id=1274&Itemid=137&lang=en#.Ue0-mD5ASb8](http://www.africanchildinfo.net/index.php?option=com_sobi2&sobi2Task=sobi2Details&sobi2Id=1274&Itemid=137&lang=en#.Ue0-mD5ASb8).

- Preventing improper financial gain and corruption, including through structures, procedures and monitoring, as well as policies around fees and contributions.

3. Establishing cooperation between States, including:

- Cooperation between Central Authorities,
- Cooperation among all public and private agencies regarding Convention procedures, including post-adoption, and
- Cooperation among States and Central Authorities “to prevent abuses and avoidance of the Convention.”

4. Ensuring authorization of competent authorities, including:

- Competent authorities, or those that “have the power or jurisdiction to make the decision in question,” including public entities such as courts, Central Authorities, and private ones like adoption accredited bodies/providers,<sup>12</sup>
- “Adequate and appropriate powers and resources to authorise the Central Authority to fulfill its obligations and perform its functions,” and
- “[T]he role of accredited bodies and whether to allow them to operate as part of the system.”

The Convention also establishes several “Key Operating Principles” that “are intended to guide the day-to-day operation of Convention procedures and handling of files or other requests and should be taken into account when Contracting States are considering their implementing legislation and measures:”<sup>viii</sup>

- Progressive implementation: “encourages ...continuing process of development and improvement;”
- Resources and powers: “Implementing measures and legislation should ensure that all authorities or personnel involved in the operation of the Convention are provided with sufficient powers and resources to support [Convention] effective functioning;”
- Co-operation
  - ✓ Improving cooperation internally among authorities/ bodies in the adoption process (e.g., Central Authorities, public authorities, courts, accredited bodies, approved persons, institutions, child care agencies and police)

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<sup>12</sup> While U.S. policymakers and practitioners typically use the term “accredited adoption service provider,” most other Convention countries use “adoption accredited bodies,” the reference in Article 22(2) of the Convention.  
Donaldson Adoption Institute

- ✓ Improving cooperation externally of contracting states' Central Authorities
- ✓ Improving co-operation through meetings and information exchange
- Communication: external and internal
- Expeditious procedures: "use procedures which seek to fulfill the purposes of the Convention but which do not cause unnecessary delay that could affect the health and well-being of children:"
- Transparency: "Laws, regulations, policies, fees and processes should be clearly defined, and clearly communicated to all who use the system."
- Minimum Standards: "The Hague Convention sets out the minimum standards or basic rules to be observed within the intercountry adoption process.... It is for individual States to decide what safeguards and requirements are needed for their particular circumstances over and above those set out in the Convention itself. It is also for individual States to decide how best to strengthen and give effect to some of the central principles of the Convention."

## **PRACTICAL CONTEXT: 'CHILDREN OUTSIDE OF FAMILY CARE'**

In order to better understand the role that ICA plays among the range of child placement options, it is important to consider who children in need of families are and how many of these children there are. While different organizations use the term "children outside of family care," definitions vary. The Better Care Network<sup>13</sup> defines "children without parental care" as "all children not living with at least one of their parents, for whatever reason and under whatever circumstances,"<sup>ix</sup> and UNICEF defines "orphans" as children who have "lost one or both parents." There are 132 million children who meet this definition of "orphan" in sub-Saharan Africa, Asia, Latin America and the Caribbean (this number does not appear to include Central and Eastern Europe).<sup>x</sup> Applying this definition, some of these children are/could be living in single-parent households or other family arrangements, and may not be in need of placement with new families.

A more limited definition of children who likely are in need of permanent families is "double orphans" – those under age 17 who have lost both their mother and father. There are between 13 million and 16 million such children in Sub-Saharan Africa, Asia, Latin America and the Caribbean.<sup>xi</sup> There are more than 5 million "double orphans" living in just 23 primary ICA countries of origin (see Table 1).<sup>xii</sup> In addition to these millions of parentless children, there are

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<sup>13</sup> The Better Care Network is "s an interagency network committed to facilitating global information exchange and collaboration among the growing number of organizations, religious groups, governments and individuals working on the issue of children without adequate family care," comprised of a number of multilateral, bilateral and nongovernmental organizations.

many others who are abandoned, voluntarily relinquished, or removed from their biological families due to neglect or abuse, and not living in a permanent situation (i.e., living in temporary foster care or institutions), and who may legally be free – after diligent searches for biological family members or extended kin caregivers – and “psycho-socially” suitable<sup>14</sup> for adoptive placement.

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<sup>14</sup> “The child’s psycho-social adoptability is determined by the conclusion that it is impossible for the birth family to care for the child, and by the assessment that the child will benefit from a family environment. This is supplemented by his / her legal adoptability, which forms the basis for severance of the filiation links with birth parents, in the ways specified by the law of the State.” Hague Conference on Private International Law’s “The Implementation and Operation of The 1993 Hague Intercountry Adoption Convention: Guide to Good Practice,” paragraph 325.

**Table 1. COO Population, Birth and Orphan Statistics**

Country	Population Under 18 (thousands)	Population Under 5 (thousands)	Annual Number of Births (thousands)	Crude Birth Rate	Birth Registration (%)	Orphans (thousands)	Orphans as % Population Under 18	"Double Orphans"	"Double Orphans" as % Population Under 18
Belarus	1,766	527	107	11	NA	150	8.49%	6,800	0.39%
Brazil	59,010	14,662	2,996	15	93	NA	NA	110,000	0.19%
Bulgaria	1,249	378	75	10	NA	94	7.53%	2,700	0.22%
Chile	4,615	1,222	245	14	100	140	3.03%	2,700	0.06%
China	317,892	82,205	16,364	12	NA	NA	NA	560,000	0.18%
Colombia	15,951	4,509	910	19	97	820	5.14%	25,000	0.16%
Ethiopia	40,698	11,915	2,613	31	7	NA	NA	630,000	1.55%
Ghana	11,174	3,591	776	31	63	1,100	9.84%	130,000	1.16%
Guatemala	7,072	2,192	473	32	97	380	5.37%	16,000	0.23%
Haiti	4,271	1,245	266	26	81	440	10.30%	50,000	1.17%
India	448,336	128,542	27,098	22	41	31,000	6.91%	1,200,000	0.27%
Kazakhstan	4,800	1,726	345	21	100	420	8.75%	31,000	0.65%
Latvia	382	117	24	11	NA	32	8.38%	N/A	N/A
Liberia	2,057	700	157	39	4	340	16.53%	45,000	2.19%
Lithuania	616	173	35	11	NA	52	8.44%	N/A	N/A
Nigeria	79,931	27,195	6,458	40	30	12,000	15.01%	1,700,000	2.13%
Peru	10,421	2,902	591	20	93	550	5.28%	25,000	0.24%
Philippines	39,205	11,161	2,358	25	83	1,900	4.85%	81,000	0.21%
Poland	7,023	2,008	410	11	NA	440	6.27%	N/A	N/A
Republic of Korea	9,842	2,488	479	10	NA	280	2.84%	3,900	0.04%
Romania	3,928	1,093	221	10	NA	290	7.38%	11,000	0.28%
Russia	26,115	8,264	1,689	12	NA	NA	NA	220,000	0.84%
Sri Lanka	6,183	1,886	373	18	97	340	5.50%	12,000	0.19%
Thailand	17,111	4,270	824	12	99	1,400	8.18%	58,000	0.34%
Ukraine	7,977	2,465	494	11	100	810	10.15%	41,000	0.51%
Vietnam	25,532	7,202	1,458	16	95	1,400	5.48%	57,000	0.22%
Data for 2011, except orphans for 2009. Birth registration 2005-2011 "Percentage of children less than 5 years old who were registered at the moment of the survey." UNICEF, State of the World's Children 2013, <a href="http://www.unicef.org/sowc2013/statistics.html">http://www.unicef.org/sowc2013/statistics.html</a> (orphan data from SOWC 2012).							Children and AIDS Country Fact Sheets 2009 (Dec. 2009), citing UNAIDS 2008 (latest available a/o 10-13) <a href="http://www.unicef.org/publications/files/Children_and_AIDS_CFS_EN_011810.pdf">http://www.unicef.org/publications/files/Children_and_AIDS_CFS_EN_011810.pdf</a>		

Highlighted Countries = those that participated in interviews

Likewise, information about the status of children outside of family care is severely lacking. According to the Better Care Network, “there is little reliable and consistent country-by-country data on the number of children in formal care [living in institutions or formally arranged foster families], why they were placed there, when their case was last reviewed, [or] whether they have a surviving parent” in developing nations.<sup>xiii</sup> The UN estimates there are about 8 million children in institutional care, though some NGOs suspect the number is higher due to inadequate data collection.<sup>xiv</sup> Even so, Save the Children estimates a minimum of 80 percent of institutionalized children have one or both living parents. There do not appear to be any statistics about where children without families live in Africa and Western, South and East Asia.

More than 15 million children, then, are parentless, in temporary placements or languishing in institutions without safe, loving, permanent families. Yet, according to United Nations 2009 statistics (the latest publicly available), only about 260,000 children are adopted worldwide each year – both within their own countries (220,000) and into others (40,000).<sup>15</sup> Of that total, just three countries accounted for 75 percent: the United States (half), and China and Russia (combined another one-quarter).<sup>xv</sup>

Intercountry adoption (ICA) can be an excellent compensatory experience for many children without parental care, and who are typically living in institutions.<sup>xvi</sup> In fact, a substantial body of research finds that adoption is better for children than institutions or long-term foster care.<sup>xvii</sup> UNICEF recognizes that “[f]or individual children who cannot be cared for in a family setting in their country of origin, inter-country adoption may be the best permanent solution.” UNICEF further supports ICA “when pursued in conformity with the standards and principles of the 1993 Hague Convention.”<sup>xviii</sup>

## NEED FOR RESEARCH ON HAGUE CONVENTION IMPLEMENTATION

While the Convention – which entered into force on May 1, 1995,<sup>16</sup> and has 90 countries that are party to it<sup>17</sup> – generally has changed the focus of ICA from “adopter-led” to “child-led,”<sup>xix</sup> some states continue to have insufficient safeguards and illegal practices, such as birth mother coercion and lack of informed consent.<sup>xx</sup> UNICEF has determined that “[s]ystemic weaknesses

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<sup>15</sup> See page 5 for a discussion of and more recent, and lower, statistics for ICA.

<sup>16</sup> Contracting States’ dates of entry into force depend on when they ratified the Convention; for each country, the Convention becomes effective “on the first day of the month following the expiration of three months after the deposit of its instrument of ratification.” Article 46(2)(a).

<sup>17</sup> States can become parties to the Convention by ratifying or acceding to it; for purposes of simplification and readability, only the term “ratify,” not “accede,” is used in this report. Another four countries (Haiti, Nepal, Russia and South Korea) have signed, but not yet ratified, the Convention. [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=69](http://www.hcch.net/index_en.php?act=conventions.status&cid=69)



persist and enable the sale and abduction of children, coercion or manipulation of birthparents, falsification of documents and bribery.”<sup>xxi</sup> Furthermore, the UN discovered that 6.4 percent of trafficking victims in 2010 were trafficked for purposes not included in the Trafficking in Persons Protocol, including illegal adoptions, which were identified in 15 countries.<sup>xxii</sup> In short, challenges to ethical and transparent ICA in the best interests of children persist.

In the midst of these ongoing problematic issues and continued implementation of the Convention by dozens of countries of origin (COOs) and receiving countries (RCs), global ICA decreased 57 percent from 2004 to 2012 – from a high of 45,299 to 19,540.<sup>xxiii</sup> Analyses indicate, on the other hand, that the proportion of “special needs”<sup>18</sup> intercountry adoptions has increased dramatically since 2002.

Nearly all of the major RCs have witnessed overall declines since 2004.<sup>xxiv</sup> Of primary COOs in recent years, numbers of children being adopted from China and Russia decreased, while ICA from Ethiopia increased.<sup>xxv</sup> The dynamics of ICA are thus various and nuanced across different COOs and RCs.

As ICA expert Peter Selman notes, the “decline seems to be more influenced by the supply of children from key states of origin,” explained by political factors, restrictions on prospective adopters (especially single individuals), improved domestic child welfare systems, increased domestic adoptions, heightened focus on special needs ICA, development, and advocacy by internationally adopted adults (e.g., South Korea).<sup>xxvi</sup>

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<sup>18</sup> The term “special needs,” while undesirable in reference to children, is a term of art in both international and domestic adoption policy and practice, with differing (or no) definitions depending on the country and/or agency/practitioner. It is used in this report because it is a recognized phrase, and is hereinafter not enclosed in quotation marks for ease of reading.

**Table 2. COO ICA Statistics**

Country	# Children Placed From COOs							Adoption Ratio %
	2005	2006	2007	2008	2009	2010	2011	2011*
Belarus		34		5		99		0.09
Brazil	473	518	485	490	462	380	348	0.01
Bulgaria		96		132		248		0.33
Chile	106	85	87	51	71			0.03
China	14,493	10,744	8,748	5,975	5,084	5,480	4,418	0.03
Colombia	1,466	1,639	1,635	1,617	1,415	1,798	1,577	0.17
Ethiopia	1,778	2,172	3,033	3,905	4,564	4,404	3,456	0.13
Ghana		34		116	116	129		0.02
Guatemala	3,872	4,232	4,851	4,186	799	58	40	0.01
Haiti	958	1,096	783	1,368	1,241	2,601	195	0.07
India	873	847	1,003	759	727	615	628	0.002
Kazakhstan	843	714	779	732	659	518	149	0.04
Latvia	111	147	114	83	141			0.59
Liberia		369	334	249	36	52		0.03
Lithuania	108	90	148	121	146	113		0.32
Nigeria		104	83	223	184	259		0.004
Peru	148	158	144	143	145			0.02
Philippines	503	476	569	600	583	516	509	0.02
Poland	409	395	381	408	402	325	298	0.07
Republic of Korea	2,121	1,815	1,223	1,392	1,438	1,153	961	0.20
Romania	2	0		0		0		0.00
Russia	7,480	6,765	4,880	4,140	4,033	3,395	3,327	0.20
Sri Lanka				69				0.02
Thailand	465	419	440	384	339	314	261	0.03
Ukraine	1,987	1,046	1,614	1,577	1,517	1,094	1073	0.22
Vietnam	1,198	1,370	1,695	1,739	1,518	1,279	704	0.05

Highlighted Countries = those that participated in interviews

Black = Selman, NCFA Adoption Advocate No. 44 Feb. 2012; Black = Selman, NCFA Adoption Advocate No. 44 Feb. 2012; Green = Selman, P. (2013) Key Tables for Intercountry Adoption: Receiving States 2003-2012; States of Origin 2003-2011, [http://www.hcch.net/index\\_en.php?act=publications.details&pid=5891&dtid=32](http://www.hcch.net/index_en.php?act=publications.details&pid=5891&dtid=32); Blue = Selman, Recent Trends in Intercountry Adoption, Sept. 2010; Orange = Hague.

**Table 2. RC ICA Statistics**

Country	2005	2006	2007	2008	2009	2010	2011	2012
Australia	434	421	405	270	269	222	215	149
Belgium	471	383	358	364	439	388	351	260
Canada	1,871	1,535	1,712	1,916	2,129	1,970	1,785	1,367
Denmark	586	447	429	395	496	419	338	219
Finland	308	218	176	157	187	160	163	175
France	4,136	3,977	3,162	3,271	3,017	3,504	1,995	1,569
Germany	560	583	778	664	571	504	525	N/A
Ireland	366	313	392	422	307	201	188	N/A
Italy	2,874	3,188	3,420	3,977	3,964	4,130	4,022	3,106
Netherlands	1,185	816	778	767	682	705	528	488
Norway	582	448	426	304	347	343	304	239
Spain	5,423	4,472	3,648	3,156	3,006	2,891	2,573	1,669
Sweden	1,083	879	800	793	912	729	538	466
Switzerland	389	410	394	367	349	388	367	314
UK	369	363	356	225	200	175	153	120
USA*	22,728	20,679	19,613	17,438	12,753	12,149	9,320	8,668

Highlighted Countries = those that participated in interviews

Selman, P. (2013) Key Tables for Inter-country Adoption: Receiving States 2003-2012; States of Origin 2003-

2011, [http://www.hcch.net/index\\_en.php?act=publications.details&pid=5891&dtid=32](http://www.hcch.net/index_en.php?act=publications.details&pid=5891&dtid=32)

\*FY data

Furthermore, the Convention generally is not specific in requirements for safeguards; it merely “establishes minimum standards, but does not intend to serve as a uniform law of adoption.”<sup>xxvii</sup> It is for individual States to decide which safeguards and requirements are needed for their particular circumstances over and above those set out in the Convention itself and to decide how best to strengthen and give effect to some of the central principles of the Convention.<sup>xxviii</sup> Many States enact domestic legislation to better implement the Convention.

Article 7 of the Convention provides that States must “designate a Central Authority to discharge the duties which are imposed by the Convention,” including “all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.”<sup>xxix</sup> Central and adoption authorities have the authority to apply standards, set priorities, oversee providers and enforce standards. Their views will direct next steps in the climate of ICA administration.

Given the various stages of Convention implementation, the declining number of intercountry adoptions, and the large number of children without parents, it is imperative to understand countries' ICA policies. Though the Hague Convention became effective nearly 20 years ago, no independent NGO has comprehensively conducted COO and RC reviews of Hague implementation, obstacles and best practices from a multi-country perspective, to understand what is working and not working, where changes are needed and improvements could be made and how the ICA system can best serve the interests of the many children waiting for nurturing, permanent families. Research also is lacking on COOs' domestic child welfare system capacity, as well as improvements to domestic adoption policy and practice, elements that are critical to the successful application of the subsidiarity principle.

## **INTERVIEWS WITH COUNTRY CENTRAL/ADOPTION AUTHORITIES**

Interviews with 19 professionals at country Central and Adoption Authorities<sup>19</sup> were conducted to understand COO and RC perspectives and approaches to giving effect to the Convention, as well as to see what challenges remain to be addressed and what best practices have been identified so that ICA is in best interests of children. Taken together and individually, themes and patterns across countries are useful to understand Convention implementation.

### **Methodology**

Forty-two countries – 26 COOs and 16 RCs – were selected for inclusion in the interview pool based on ICA statistics over the past 10 years and selected indicators over the past five years (see Table 2). Of these 42 (see Appendix 2), all 16 RCs have ratified the Convention and nine of the 26 COOs have not.

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<sup>19</sup> Central Authorities refer to those government entities with jurisdiction over ICA in countries that have ratified the Hague Convention, whereas Adoption Authorities refer to the government ministries that have purview over ICA in countries that have not ratified the Hague.

**Table 3. Country Hague Convention Status**

Country	Date Convention Ratified	Country	Date Convention Ratified
Belarus	7/17/2003	Australia	8/25/1998
Brazil	3/10/1999	Belgium	5/26/2005
Bulgaria	5/15/2002	Canada	12/19/1996
Chile	7/13/1999	Denmark	7/2/1997
China	9/16/2005	Finland	3/27/1997
Colombia	7/13/1998	France	6/30/1998
Ethiopia	N/A	Germany	11/22/2001
Ghana	N/A	Ireland	7/28/2010
Guatemala	11/26/2002	Italy	1/18/2000
Haiti	N/A	Netherlands	6/26/1998
India	6/6/2003	Norway	9/25/1997
Kazakhstan	7/9/10	Spain	7/11/1995
Latvia	8/9/2002	Sweden	5/28/1997
Liberia	N/A	Switzerland	9/24/2002
Lithuania	4/29/1998	UK	2/27/2003
Nigeria	N/A	USA	12/12/2007
Peru	9/14/1995		
Philippines	7/2/1996		
Poland	6/12/1995		
Republic of Korea	N/A		
Romania	12/28/1994		
Russia	N/A		
Sri Lanka	1/23/1995		
Thailand	N/A		
Ukraine	N/A		
Vietnam	11/1/2011		

Highlighted Countries = those that participated in interviews

The interview questions for Central/Adoption Authority professionals sought to gain a detailed, nuanced understanding of the Convention's positive and negative impact on countries' policies and practices, remaining ethical and regulatory challenges to achieving the treaty's objectives, best practices of its domestic policy implementation, as well as any discrepancies between stated policy and actual practice. The questions also explored domestic adoption and temporary care, implementation of best interests and subsidiarity principles, special needs adoption, and accreditation.<sup>20</sup> Several interview questions about these topics remained constant across countries, but a few other questions were specific to COOs, RCs and/or particular countries. Questions for Lagos, a state in Nigeria, the only country interviewed that is not a party to the Convention, inquired about changes in adoption policy and practice over the last five years (versus post-ratification) and adoption authorities (versus central authorities).

Outreach to all 42 countries' Central/adoption authorities was conducted during the period from October 2012 to June 2013. Central/adoption authority contacts' names and email addresses were obtained from a variety of sources, including the Permanent Bureau of the Hague Conference on Private International Law, government and multilateral agencies, experts in the adoption field, and Internet research. Emails to authorities requested convenient dates and times for telephone interviews of about 10-15 open-ended questions, during an approximately 30-minute phone call.

Professionals in the below 19 countries were interviewed from November 2012 to July 2013 about domestic and ICA policy and practice.<sup>21</sup>

- 7 COOs: Colombia, India, Latvia, Lithuania, Nigeria (Lagos State<sup>22</sup>), the Philippines and Poland and
- 12 RCs: Australia, Belgium, Canada, Denmark, Finland, Ireland, Norway, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

Of these, Colombia and Australia participated in interviews with groups of professionals; and Canada, Ireland, Lagos and Spain responded in writing.<sup>xxx</sup>

As mentioned above, all of the interviewed RCs and COOs (with the exception of Nigeria) have ratified the Convention. Of the 19 COOs contacted that did not respond or accept the interview request (11 that have ratified the Convention and eight that have not):

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<sup>20</sup> See Appendix 3 for lists of standard interview questions and those specific to COOs and RCs.

<sup>21</sup> See Appendix 1 for the names and titles of country professionals, all of whom consented to having that information listed.

<sup>22</sup> There is no federal adoption authority in Nigeria and 36 states comprise the Federal Republic of Nigeria. Lagos State, while the smallest in area, contains the largest urban area, Lagos.

- Four (Belarus, Bulgaria, Kazakhstan and Peru) initially responded to the emailed interview request, but did not follow-up as they indicated they would or respond to subsequent emails.
- Two (South Korea and Romania) declined to participate.
- The other 13 COOs (Brazil, Chile, China, Ethiopia, Ghana, Guatemala, Haiti, Liberia, Russia, Sri Lanka, Thailand, Ukraine and Vietnam) did not respond to repeated outreach efforts. A minimum of three emails (in some cases, more), and personalized when possible, were sent to each of the countries that did not respond to initial requests, and often to multiple contacts/ministries for the same country. An option was also provided to respond to the questions included in the email in writing, in lieu of a telephone interview.

Of the four RCs not interviewed:

- Two, France and Italy, did not respond to repeated outreach efforts (similar to those described above).
- Two others, Germany and the Netherlands, declined to participate.

The semi-structured interviews were recorded with the consent of all participants, and outside transcription services produced the transcripts of the conversations. Transcribed interviews were emailed to interviewees to obtain confirmation that their statements were transcribed correctly; they were also asked to supplement, if possible, portions of the conversations that the transcriptionists noted they could not hear or understand. Findings relevant to specific countries were also included in the email for interviewees to review their direct quotes and paraphrased material, organized according to the Convention objectives, to ensure that the facts, concepts and ideas were captured accurately and to provide revisions if they were not. The emails also requested that participants include any additions elaborating on any of the themes and/or describing any significant developments since the interview was conducted; they were included to the extent time, space and consistency allow. Replies were requested within two weeks, extensions were made to the extent possible. Nine of the 19 countries responded, and corrections and/or additional information were incorporated in the findings.

## **Limitations**

As only 19 of 42 (45%) of the contacted countries agreed to participate in interviews and only seven COOs (six of which have ratified the Convention) did so, the interview pool is not a fully representative sample. The findings described below cannot be generalized across COOs and RCs (in- and/or outside the study).

The information included in the country findings below is exclusively drawn from the interviews and, in the case of some statistics, from written material provided by interviewees. Since interviewees were "on the record," it is possible that some may not have felt comfortable identifying specific and/or major problems with Convention implementation in their country or others (to the extent they thought there are any).

Reported findings are drawn directly from the transcribed interviews. No external primary or secondary sources were consulted to confirm, challenge or supplement statements. Additional research should integrate information about recent policy and practice developments for individual countries from other resources to provide relevant contextual information.

Further and more in-depth research should be conducted, particularly around COO Convention implementation, as well as COOs that have not ratified the Convention, their current child welfare/adoption systems and plans to accede to the Convention.

## **INTERVIEW FINDINGS**

### **Approach of Analysis**

Interview transcripts were analyzed to identify findings, themes, patterns and recommendations from the open-ended question responses with countries viewed individually, within categories of COOs or RCs, and/or the universe of countries with significant numbers of ICA. Findings are clustered around the four general Convention objectives: best interests of the child, safeguards to prevent abduction/sale/trafficking, country co-operation, and authorized competent authorities (outlined in detail above on pages 1-2). As the goals have related strategies and purposes, content that may be relevant to multiple sections is only included in the most relevant one. The best interests standard discussion includes the most information, as it seems to be the primary implementation goal.

Discussed within each Convention goal are subthemes related to its implementation: positive impacts and best practices and negative impacts and remaining challenges. To avoid breaking up related subject matter content, occasionally some negative aspects will be included with the positive ones. Occasionally, even though a country did not explicitly identify a Convention result, for example as positive or negative, if it could reasonably be considered as such, it was included in that section. Discussion of key operating principles (see pages 2-3 above) is also included.

For each theme, descriptions of country ICA and domestic adoption policies and practices, with specific examples, are provided. Generally COOs are discussed individually first within sections (unless there are similarities among COO and RC responses, in which case the two country groups are discussed together). Countries are typically reported in alphabetical order, unless they also are grouped according to similar responses.



While every effort was made to include all relevant themes and issues from each country's interview, the fact that a country is not included in the discussion of a particular topic (or did not address the theme in the interview) does not necessarily mean its policy and/or practice does not address that specific challenge or best practice. The difference in the amount of content recounted for each country generally reflects the amount of information they provided. Several interviewees provided additional data in writing; that information is included where relevant, and a website link is cited if it is a publicly available source. Unless otherwise noted (by an endnote citation), findings and information described below were drawn from the interviews, and refer to post-Convention ratification developments. As noted above, reported findings are drawn directly from interviews and no external sources were consulted to confirm or supplement statements.

Relevant contextual factors (see Tables 1, 2 and 3) to consider when assessing the significance of findings include:

- COO, RC status or both (U.S.)
- Convention ratification status and year
- Relative ICA numbers for COOs and RCs, as some countries report relatively large numbers of ICA, while others relatively smaller ones
- COO current status (some countries recorded larger numbers of children adopted in earlier years of the 21<sup>st</sup> century, versus more current ones, and some COOs may have relatively more stable adoption systems in place because they have longer histories of ICA and/or ratified the Convention earlier)
- COO child demographic statistics (some countries have larger child populations and larger proportions of “double orphans”)

## **Overall Findings**

As would probably be expected, in general COOs and RCs reported that the Hague Convention facilitated the development of national frameworks and laws, clearer rules, streamlined processes, and/or increased cooperation among them. Countries also indicated the Convention resulted in higher standards for and greater accountability in ICA. Some countries, such as Poland and Sweden, explained that laws that existed prior to their ratification of the Convention already required many of the same safeguards, and others had ratified the Convention several years ago, so that standards had been firmly entrenched for quite some time.

COOs identified very few problems associated with implementation of the Hague Convention and some, such as Latvia and Poland, did not identify any. Similarly, most RCs did not list many drawbacks of the Convention. In fact, Finland reported no “negative changes” and no problems with implementation, in addition to many good developments in COO child welfare and intercountry adoption. Spain said the changes and improvements have been very significant. Norway said that it does “not see any negative consequences” and Sweden did not have any recommendations for improving its domestic regulations. The U.K. considered Convention implementation to have worked well and noted that “there doesn’t seem to be anything that creates an inappropriate barrier.” A number of COOs and RCs recommended or indicated that guidance would be helpful to facilitate implementing the more nuanced, complex principles, such as subsidiarity.

### **Best Interests of the Child Standard**

Article 4 of the Convention requires that determinations that “intercountry adoption is in the child's best interests,” without further elaboration. The Hague Conference on Private International Law’s “The Implementation and Operation of The 1993 Hague Intercountry Adoption Convention: Guide to Good Practice” explains the lack of clarity:

“the term is not defined in the Convention because the requirements necessary to meet the best interests of the child may vary in each individual case, and the factors to be considered should not, in principle, be limited. However, a number of essential factors are referred to in the Convention and must be included in any consideration of what is in the best interests of a child who is the subject of an intercountry adoption. These factors, taken from the Convention, include, but are not limited to: efforts to maintain or reintegrate the child in his/her birth family; a consideration of national solutions first (implementing the principle of subsidiarity); ensuring the child is adoptable, in particular, by establishing that necessary consents were obtained; preserving information about the child and his/her parents; evaluating thoroughly the prospective adoptive parents; matching the child with a suitable family; imposing additional safeguards where necessary to meet local conditions; providing professional services. The Explanatory Report notes, at paragraph 50, that a “strict interpretation of the word ‘best’ might render impossible some good adoptions and to avoid such undesirable result, it should be construed as meaning the ‘real’ or ‘true’ interests of the child.”

In discussing the application of the best interests standard, the Hague Conference’s “Guide to Good Practice” outlines subsidiarity, non-discrimination, adoptability, preservation of information, and suitable family matches.<sup>xxx</sup> COOs address the meanings of adoptability, best interests and subsidiarity principles in their Hague Conference country profiles, while RCs only discuss adoptability.<sup>xxxii</sup>

The Guide to Good Practice defines subsidiarity as:

“recognis[ing] that a child should be raised by his or her birth family or extended family whenever possible. If that is not possible or practicable, other forms of permanent family care in the country of origin should be considered. Only after due consideration has been given to national solutions should intercountry adoption be considered, and then only if it is in the child’s best interests. Intercountry adoption serves the child’s best interests if it provides a loving permanent family for the child in need of a home. Intercountry adoption is one of a range of care options which may be open to children in need of a family.”

### Best Practices of Convention Implementation

Overall in recent years, there has been increased incorporation of the children’s best interests and subsidiarity principles in both COOs and RCs. Likely at least in part due to this, there also has been more focus on encouraging domestic adoption in COOs. A number of countries observed more domestic adoption in COOs and fewer intercountry adoptions, though international interest in adopting generally outpaces domestic. RCs have also experienced decreases in domestic adoptions, and with the exceptions of the United Kingdom and United States, generally reported to have relatively few. Significantly, ICA of children with special needs has been increasing, though many RCs do not distinguish among types of adoption in their recorded statistics.

Perhaps contrary to popular perception, many COO professionals indicated that few child placements in COO temporary care stem from poverty and many COO governments have support systems in place to assist struggling families. Most COOs have policies discouraging institutionalization of children, but cultural norms in many COOs do not favor adoption from the child welfare system.

The discussion below generally illustrates the positive aspects of individual countries’ applications of best interests of the child and subsidiarity principles.<sup>xxxiii</sup> Additionally, due to the interplay between subsidiarity, increasing COO domestic adoptions (and related temporary care conditions) and decreasing RC domestic adoptions, with ICA generally and special needs adoptions specifically, all are discussed below. COOs are presented first in alphabetical order, then RCs.

With regard to children with special needs who are available for international adoption and/or are adopted internationally, countries differ in their definitions of special needs and the Convention itself offers no guidance. The Convention references the term just once; Article 16(1)(a) requires the COO Central Authority, after a determination of the child’s adoptability, to

prepare a report including information about “any special needs of the child.” The Hague Conference’s “Guide to Good Practice” defines children with special needs as “those who may be: suffering from a behaviour disorder or trauma, physically or mentally disabled, older children (usually above 7 years of age), or part of a sibling group.”<sup>xxxiv</sup> Country responses to Conference country profile questions include various definitions of “children with special needs.”<sup>xxxv</sup>

### *Countries of Origin*

#### *Colombia*<sup>23</sup>

In Colombia, domestic “families by law have priority; however, we don’t have the same demand of national families as we have of international families.” In November 2012, 300 families in Colombia were waiting to adopt a child, versus 3,000 international families. Among the total of 1,363 adoptions in 2012 (approximately 720 special needs), 34 percent were international special needs, compared to 19 percent domestic special needs; 27 percent were non-special needs domestic and 20 percent non-special needs international. The 2012 total represented a decline from the past couple of years: there were 2,213 adoptions in 2011 and 3,058 in 2010.

More than 11,000 children with “special needs” or “things that may make these kids difficult to adopt,” are still legally available for adoption in Colombia. These waiting children are in both foster care and orphanages, for which there are strict laws and the government provides funding, and accredited service providers are “very useful in finding families for these kids.” National law provides that parents and children will not be separated because of poverty and there are several government programs to support families living in poverty.

#### *India*

In an effort to promote ethical adoption practice, India developed a new online system that allows applications to be registered, information about children’s status and availability to be viewed, and applications to be distributed to agencies with available children. India “ensure[s] that every effort is made to place a child in domestic adoption” and its “main focus is to expand the adoption program in the country.” India must place 80 percent of children without special needs in domestic adoptions and 20 percent in ICA, and notes “mostly, special needs children are placed in inter-country adoption.” In 2011, there were about 6,500 total adoptions, around

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<sup>23</sup> Subsequent to the interview reported here and beginning July 15, 2013, Colombia instituted a two-year moratorium on acceptance of new intercountry adoption applications from non-Colombian citizens living abroad interested in adopting a child under 6 years and 11 months old, unless the child is considered to have special characteristics or needs.

[http://adoption.state.gov/country\\_information/country\\_specific\\_alerts\\_notices.php?alert\\_notice\\_type=alerts&alert\\_notice\\_file=colombia\\_2](http://adoption.state.gov/country_information/country_specific_alerts_notices.php?alert_notice_type=alerts&alert_notice_file=colombia_2)

6,000 of which were domestic; of the 500 intercountry adoptions, about 60 percent were of children with special needs.

Children in temporary care are usually not orphans and live in both group homes (tiered by age) and institutions, as “foster care is not very popular in India.” Child welfare committees handle surrender cases; independent bodies provide counseling (formerly adoption agencies did); and the mother provides consent, indicates contact preference and receives a surrender order. She has two months to reclaim her child; the procedure is more difficult for unmarried mothers.

### *Latvia*

Latvia seeks foremost to place children in families, and therefore educates society on children available for adoption, as well as the process; domestic adoption is increasing, society’s attitude toward adoption is more open, and stereotypes about children in orphanages reportedly have dissipated. As a result, people are more likely to consider adopting these children and be understanding of their needs. Among domestic adopters are an increasing number of parents who also have biological children. Adoptions of children older than 3, and especially teenagers, are rare. While there are 1,200 children who are legally free for adoption (generally as a result of parental abuse and neglect or their parents’ inability to care for their health problems), half of them are sibling groups who do not want to be adopted. There has been a corresponding increase in the number of foster families, from about 20 in 2006 to 1,000 currently; the other options for temporary care include extended family and institutional care. Children are not relinquished because of poverty because local government social service agencies provide support to parents and there are safeguards within the orphan court system.

### *Lithuania*

Domestic adoption has increased as a result of Convention implementation. Among Lithuania’s child welfare goals are to increase domestic adoptions and provide support services to families as needed. As for encouraging domestic adoption as a best practice, Lithuania explained that it provides social benefits for families adopting domestically, and children are only internationally adoptable if efforts to be placed with a family domestically are unsuccessful for six months. In 2011, domestic adoptions increased, including those of older children, partially because the country extended social benefits to adoptive parents. Currently, Lithuania only allows children with special needs to be adopted internationally. Foreign families adopted 98 Lithuanian children in 2012, down from 144 in 2011, while there were 112 domestic adoptions of children deprived of parental care in 2012.<sup>xxxvi</sup> As of January 2013, Lithuania had a waiting list of over 100 foreign families waiting to adopt, with waiting times of 4-5 years. Children are placed for adoption for varied reasons, such as alcoholism and child abuse and neglect, and temporary care includes public and private institutions.

### *The Philippines*

The Philippines explained it has instituted a new system on adoptability determinations which has improved efficiency: the process requires certification from the Department of Social Welfare and Development (DSWD) “declaring the child legally available for adoption.” The petition for declaration of abandonment is now part of the administrative certification process, whereas previously it had been under the jurisdiction of the family courts, cutting the time for declaration of abandonment from four-five years to two.

The Intercountry Adoption Board (ICAB) is the DSWD arm for ICA. The Philippines does not have ICA providers located in the country, but accredits foreign adoption agencies, which ensure the suitability of prospective adoptive parents, explaining “it’s easier for us to deal with them [international agencies], because they’re not in the country. There’s no conflict of interest.” ICAB policy further provides: “If a child-caring agency is heavily supported by a specific foreign adoption agency, they are not allowed to match a child with that foreign adoption agency.”

DSWD accredits domestic child-caring agencies, oversees domestic adoptions, and has accredited two adoption agencies as “child placement agencies” (those allowed to assess families for adoption and place children for foster care with families already approved and identified as suitable for the purpose).

Children typically are surrendered by young, unmarried mothers, as well as families whose children have special conditions. DSWD tries to reunite parents who temporarily place children due to extreme poverty. The country policy is “de-institutionalization” and ICAB’s policy is “institutionalization is the last resort,” in line with the Special Commission recommendation to “act expeditiously in the process of adoption, and ... avoid unnecessary delay in finding a permanent family for the child.” To the extent that institutions must be used as placement alternatives, DSWD oversees them. The Philippines noted that “It’s the openness of the United States to take in the children that are harder to place, meaning older, sibling groups, and some children with some special needs [older than the 6 years]” that explains why many children are placed in the U.S.

### *Poland*

Each year in Poland, 3,000 children are adopted domestically, while there are about 250-300 international adoptions. Poland does not have data on the number of special needs ICA because there is no standard definition, explaining that children who are qualified for intercountry adoption generally have handicaps or illnesses, and that “somehow all of them are of special needs.” Children who are in temporary care are fairly evenly split between institutions and foster care, and a 2011 law discourages placement in orphanages because of findings of poor care and abuse.

### *Lagos, Nigeria*<sup>24</sup>

As noted above, there is no federal adoption authority in Nigeria and 36 states comprise the Federal Republic of Nigeria; Lagos State, while the smallest in area, contains the largest urban area, Lagos. Nigeria is the only interview country that has not ratified the Convention. Lagos reported that its long-term child welfare and adoption policy objectives include discouraging institutionalization and finding appropriate disposition options (adoption, fostering, foster parenting, legal guardianship). It uses a number of strategies to meet these objectives, such as caring for abandoned children; screening children to discover their parents, relatives and guardians; identifying children for adoption; and placing them with families. It reported the following positive changes in ICA in the last five years: easy access to records, improved monitoring, practice standardization, political commitment and participation by RC Central Authorities.

In Lagos, about 70 children are adopted domestically each year, a number that has been increasing over recent years. Over the past five years, 109 children have been adopted internationally. “Quite a high number of children adopted internationally in our state” have special needs, and there have been recent, but not “substantial” increases in this type of adoption. For cultural reasons, adoptions rely on a closed model.

Lagos’ “law does not tolerate or encourage institutionalization” and “clearly stipulates short duration,” requiring extension of care orders to be granted by family courts. Most of the nearly 1,000 children in Lagos’ two government homes and 22 private orphanages are usually there for a short period while social workers seek other family members, except those who are abandoned without reliable background information who represent most of the children placed for adoption. There are, however, a “few occasions” in which parents relinquish their children due to poverty or unplanned pregnancy. The orphanages are monitored and overseen by the government, which has the authority to take enforcement action, including closing the institution, if standards violations are found. “A few” children, who have “not attained the legal duration of classifying them as deserted,” live with foster families.

### *Receiving Countries*

#### *Australia*

Australia observed that, with the Convention, there “is a level of accountability and scrutiny that, in some sense, it can make the process a bit more difficult, but at the same time the standards are a lot higher” and ICA is “very, very tightly regulated, and so we only have arrangements with a small number of countries.” As for global benefits, “the Hague sets

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<sup>24</sup> While Nigeria has not ratified the 1993 Hague Convention, in order to include all countries of origin in the same sections, Lagos, Nigeria is discussed at the end of each COO section. Discussion of ICA best practices and challenges for Lagos refer to current conditions in the absence of its ratification of the Hague Convention.  
Donaldson Adoption Institute

standards that people could see and understand and aspire to,” providing rules for an established framework that had been missing.

The Australian Institute of Health and Welfare’s *Adoption Australia* 2011-12 report showed that for the first time since 1998-99, there were more domestic adoptions (184) than ICA (149). Consistent with a worldwide decline, ICA has been decreasing since the peak years of the mid-2000’s, not due to decreasing demand (though some parents become frustrated with the long timeframes), but in part because of changing socioeconomic conditions and increasing placement options in COOs, as well as parents being encouraged to consider adopting Australian children from care. Since the 1970s, there has been a steep decline in the number of domestic adoptions for a range of reasons, including changing social norms, increased support for single mothers, required open adoptions, alternatives to adoption (e.g., long-term foster care), and a preference for “permanent care orders,” in which parents have legal responsibility but biological family ties remain intact.

Though its states define special needs differently, Australia expects an increasing proportion of ICA to be of children with special needs, in some cases because parents see that considering these children could reduce the length of the process and delays, especially in larger COO programs, such as China’s. Australia remarked that it is considered to have “an excellent system of preparation of parents, so the pre-adoption process ... seems to be extremely well-run.” There is variation across the states and territories in post-adoption programs and services that are provided by a range of government and non-government organizations.

### *Belgium*

Belgium has few domestic adoptions, and they are mainly within biological or “step” families. Over the period 2006-2012, the number of domestic adoptions ranged from 22-35.<sup>xxxvii</sup> During the same period, Belgians adopted a low of 122 children from other countries in 2012, from a high of 244 in 2009.<sup>xxxviii</sup> There is no data available on the proportion of special needs adoptions.

### *Canada*

Canada emphasized subsidiarity as a positive result of Convention implementation and the best interests of the child as “the overriding and fundamental principle that guides the development of a national child care and protection system, of which one part is a child-centric approach to intercountry adoption.” It noted that its system protects children’s welfare and interests and the adoption community collaborates to ensure placements are in the best interests of children, including positive measures to support the best interests standard: “ensuring that the child is adoptable; free and informed consent; preserving information; [and] matching with a suitable family.” Of 12 recommendations made in a recent study of federal government



supports to adoptive families, just one related to ICA, calling for more online information, while 11 sought to encourage domestic and aboriginal adoption instead of ICA.

In response to why prospective adoptive parents choose ICA, Canada stated that they may not want contact with birthparents, may be immigrants adopting from their country of birth, may have preferences regarding children's age and sex and may have "humanitarian reasons." Regarding age: "Newborns are more often available through the Canadian domestic adoption program, whereas newborns are rarely available through the intercountry adoption process." The federal Citizenship and Immigration does not provide statistics on ICA on its website.<sup>xxxix</sup>

### *Denmark*

Denmark stated that its "biggest step" was getting caseworkers to implement subsidiarity – reviewing each case and applying the best interests standard, not just relying on the COO's social report. As somewhat of an anomaly in this regard, it said that special needs ICA "is quite limited" and usually involves children with minor issues. It ascribed the reason to cultural differences in accepting and being prepared for children with issues (compared to countries like the U.S.) and "hav[ing] a rather strict approval system so you would also have analysis and have to have really good resources to get an approval to such children." Denmark reports about 20 domestic (both private infant and child welfare) adoptions annually.

### *Finland*

In 2011, there were 163 intercountry adoptions by Finland, down from a high of 305 in 2005. While Finland does not record special needs data because of different organizations' and countries' definitions of the term, it estimates about 50-60 percent of ICA is special needs (defined as children over 7 years old). It reported that "[a]ctually, this new law has changed very much," in part because domestic adoptions are also processed by the central authority. Finland does not keep statistics, but estimates there are about 30 to 50 domestic adoptions annually.

### *Ireland*

Ireland reported it is "[e]ssential that subsidiarity is used by the State of origin and that ICA is considered only after domestic adoption," and it uses Irish-accredited agencies in certain countries to help ensure that. It also remarked that "the main focus of intercountry adoption under Hague has become seeking families for children in need and not seeking children for prospective adoptive parents," its system is child-centered, and parents understand there are uniform, reliable protocols and regular fees in all Convention countries.

Ireland had 101 intercountry adoptions in 2012 (36 from Hague countries and 65 from non-Hague), and “as most children are adopted from institutions, they have additional needs” and the number of special needs adoptions “is high and increasing.” It cited as a best practice “detailed assessment” of prospective adoptive parents’ parenting capacities as they relate to children with additional needs. There are only “a minute number of children available for adoption domestically each year, for which there are waiting lists;” annually, fewer than 10 babies are placed domestically and about 40 foster children are adopted. Ireland anticipates the number of foster care adoptions (and possibly surrogacy) could increase with the decrease in numbers of children available for ICA “due to the availability of similar profile children” and “because of the Children’s Rights Bill that is expected to be legislated for within the coming year in Ireland, allowing children of marriage to be adopted in certain circumstances, from foster care.” Additionally, prospective adoptive parents “are realising that numbers of children available worldwide for international adoption are not sufficient to allow most people to fulfill their hopes of forming a family through adoption.”

#### *Norway*

Norwegians adopted 231 children from other countries in 2012, a 71 percent decline from 2002. There were 180 step-child adoptions and 46 “other” domestic adoptions that year.<sup>xl</sup> Professional boards review each child with special needs who is matched with prospective adoptive parents to ensure they are prepared. Approximately 25 percent of Norway’s ICA in 2011 was special needs, while in the past 10 years, it had been just 2 percent because there were many adoptions from China; today, there are just a few and they are of children with special needs. There were fewer than five domestic non-foster adoptions and 40 foster care adoptions in 2012; there are about 7,000 children in foster care but “not so many ... will be adopted because they still have contact with their biological parents.”

#### *Spain*

According to Spain, the subsidiarity principle has led COOs to improve systems of protection and seek domestic placements, resulting in a gradual decrease in ICA of younger and healthier children so that domestic family alternatives can be sought; there also has been a promotion of and increase in special needs ICA. It explained that its process is child-centric and establishing key phases in the adoption process has guaranteed that the benefit of the child is the priority, and as a result of the Convention, there is joint professional intervention and coordination in the placement of children with prospective adoptive parents. While it does not collect data about the proportion of adoptions that are special needs, it reported that some Convention COOs have redoubled their efforts to search for adoptive families for these children, more often providing RC central authorities with information about them.

International adoptions reached a high of 4,472 in 2006 and a low of 1,669 in 2012. In the past, parents had been motivated to adopt internationally because of the relative speed of the process and availability of young, healthy children compared to domestic adoption; in recent years, however, these two conditions have been changing. The waiting period for a child without special needs from China is now 6½ years, and there are fewer young, healthy children available. Depending on the COO, costs range from 6,000€ to 21,000€ and a study by the Community of Madrid found that ICA disruption rates were 1-1.5 percent. Spain also has experienced a decrease in domestic adoptions, with 916 in 2006, versus 775 in 2011.

### *Sweden*

Sweden explained that its total of ICA fell from 538 in 2011 to 466 in 2012 (there was a high of 750 in 2009); of those, approximately 90 percent are mediated through accredited providers, while relative and independent adoptions are not, but still require approval of the Central Authority, including of the intermediary institution. Most of its ICA occurs from China – despite a decrease from 184 children in 2010 to 90 in 2012 – and because of changes in in that COO, there are fewer young, healthy children available for adoption so “most” children have special needs and are older “and that, of course, has an impact.” The other primary COOs in 2012 were: South Korea (49), Taiwan (42), Colombia (40), Russia (33), Kenya (23) and South Africa (22). Each year, Sweden has around 30 domestic adoptions (excluding foster adoptions).

### *Switzerland*

Switzerland had 471 international adoptions in 2011, compared to 732 in 2003. About 30 to 40 percent are with non-Convention countries, primarily Russia and Ethiopia. It does not track special needs ICA placements. Prospective parents turn to ICA because there are few infants and younger children available for adoption domestically; there are 30-40 domestic infant adoptions per year, of a total of 192 domestic adoptions in 2011. Hague country processes can take about four to five years. Local authorities generally are reluctant to place children and youth who have been in foster care for adoption.

### *The United Kingdom*

The U.K only received 100 intercountry adoption applications in 2012 (a decline from 140 in each of the previous two years) and does not record special needs adoptions. Unlike most European countries, it “has quite high levels of domestic adoptions and so the majority of adoptions in the U.K. are domestic adoptions and inter-country have always been very low-level numbers by comparison.” Furthermore, there is a “shortfall of adoptions domestically and so we would be unlikely to say to anyone there wouldn’t be a child that you could be matched with.” Prospective parents pursue ICA for reasons including “the adoptive parents have got a strong connection with the country of origin” or are arranging relative adoptions.

### *The United States*

The U.S. stated that it assists COOs in building the capacity of their child welfare systems to support the subsidiarity principle and increase transparency. It also notes that for cultural reasons, some COOs “are much more open to adoption than others,” adopting a child in need of a family is a value that more people are embracing, and increases in adoption are tied to countries becoming more economically stable. The U.S. pointed out that as a result of the Convention, “what’s helpful is that the match doesn’t take place until we know the child is eligible to immigrate to the United States.”

American parents adopt a substantial number of ICA children with special needs, and the U.S. State Department says there have not been any dissolutions (defined as “the termination of the adoptive parents’ parental rights, after the adoption has occurred” on the State Department website) of Convention adoptions. As for outgoing adoptions of children with special needs from the U.S., in 2012, foreign families adopted 99 children, including “many from foster care.” The U.S. explained: “we’ve actually encouraged intercountry adoption from foster care, knowing that that it’s still one of the challenges in the United States ... to find loving homes for children in foster care. It’s that one area where we are promoting ... We’re saying, hey, adopt these children in need of homes.”

### **Remaining Convention Implementation Challenges<sup>25</sup>**

In general, countries outlined few drawbacks in implementing the Convention’s best interests of the child standard. Three of seven COOs identified negative implications. A handful of the 12 RCs likewise noted some down sides, and also pointed out remaining challenges in thoroughly applying the subsidiarity standard.

Among COOs, India mentioned that a remaining barrier to applying the best interests standard is determining children’s origins, explaining that “many children are not coming to [licensed] adoption agencies.” Latvia noted concern when it is not informed about the extent of the family research by RC competent institutions. It also mentioned that while a requirement of post-adoption reporting was a positive aspect of Latvian law, so it is informed about the child’s well-being after adoption, sometimes parents did not submit post-adoption reports and “it is difficult to control the well-being of children after they have been adopted.” As for recent negative ICA changes in Lagos, it cited failure to preserve children’s information and provide it to RCs, as well as poor recordkeeping on children who are adopted internationally. Lagos also noted that parties do not fully grasp their adoption process responsibilities, and supervision orders for adopted children are not effectively implemented.

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<sup>25</sup> Some of the issues described in report sections addressing “challenges” relate to relationships and adoptions from non-Convention countries, and thus are not “results of Convention implementation.”  
Donaldson Adoption Institute

Canada observed that the Convention “sanctions” ICA, but there are still “misconceptions” of its need; for instance, while many prospective adoptive parents believe they are saving orphans, research shows that most affected children are not orphans, while many with special needs are not adopted. Further, the general public and adoptive parents in Canada in some cases view the application of Convention procedures and safeguards as hindering their ability to adopt internationally.

While not necessarily a negative result, Ireland and the U.K. noted that there have been fewer intercountry adoptions, with the former explaining that adoptive parents are critical of the decrease, but at the same time recognize the benefit of Convention requirements for child protection. The U.K. said that country suspensions (it reported four) to ensure ethical procedures in the best interests of children have caused the decline.

Though many countries mentioned subsidiarity as a benefit of the Convention, some also noted difficulties in practice. According to Belgium, the subsidiarity principle can cause problems “because it's not always clear the whereabouts or origins of the child. In certain countries we know it's very difficult to have sufficient information about the origin of the child.” It noted that “there is a lot of work to do with the countries of origin on the search for the origin of the child” and there are questions around whether birth mothers were well-informed and offered options, though these concerns do not result in children not being adopted. Similarly, Spain said that in some cases, COOs provide only a scant amount of information about children being placed, and so it is impossible to make a proper decision about the benefits of adoption for the child. In general, there should be a greater knowledge about the needs of adoptable children in different countries to adjust the adoption applications to best serve them. Switzerland also explained that, in some cases, it is difficult to get relevant information about the children.

Canada expressed concern that the subsidiarity principle may not be rigorously applied in COOs before children are considered for intercountry adoption. It elaborated that “although (extreme) poverty should not be a factor in determining a child’s adoptability, it is often the overriding factor in a child’s eligibility for placement,” the best interests of the child principal “can be subject to many interpretations,” and “there is no guidance on the options between institutionalized care and intercountry adoption placement.”

### **Safeguards to Prevent Abduction/Sale/Trafficking**

Convention safeguards to prevent abduction, sale and trafficking in children for adoption include ensuring birth family protections and proper relinquishment consents, in addition to “preventing improper financial gain and corruption.” The Convention Guide to Good Practice enumerates some strategies to prevent improper financial gain, such as transparency in costs, effective regulation and supervision of bodies and persons, legally enforceable and enforced

penalties, regulation of fees, post-adoption surveys of adoptive parents and prohibition on private and independent adoptions.

An August 2012 Hague Conference on Private International Law Discussion Paper recognizes that “the lack of clarity and consistency in deciding what is ‘reasonable’ has led to situations where prospective adoptive parents are required to pay excessive amounts to complete an adoption. Furthermore, although the Convention clearly prohibits improper financial or other gain, regrettably, it is still common and leads, in many cases, to abuses, including in extreme cases the abduction, the sale of, and the traffic in children for intercountry adoption.”<sup>xli</sup> The Hague Conference convened an informal Expert Group meeting in October 2012 to examine the financial aspects of ICA and issued an outline of conclusions and recommendations, including that “a summary list of good practices on the financial aspects of intercountry adoption should be drawn up by the Permanent Bureau.”<sup>xlii</sup>

Also, in October 2012, the Hague Conference published “Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases.” The paper acknowledges that “despite our best efforts, there are some cases where illicit practices occur and a child is illegally obtained for adoption, even if the subsequent intercountry adoption proceeds through the proper channels” and “sets out principles and co-operative measures to prevent and address illicit practices in individual intercountry adoption cases to guide the Working Group in its discussion of practical form of co-operation.”<sup>xliii</sup>

### **Best Practices of Convention Implementation**

Several COOs stated that Convention implementation has strengthened safeguards that help reduce fraud, corruption and trafficking. RCs also found benefits of safeguards, particularly around private and independent adoptions.

In general, Colombia found that the Convention provides “some reassurance of what happens” in ICA practice. Lithuania said changes to national laws increased requirements for providers; made procedures more clear for providers and prospective adoptive parents; and lessened pressure on the Central Authority because foreign families had to work with accredited providers and not communicate directly with the Authority. It also noticed more cost information sharing between countries. The Philippines remarked that with Convention implementation “really all avenues for trafficking are, well, the easy avenues for trafficking are closed” and trafficking is prevented because Convention countries can “frown collectively on a country that is doing something bad.” Additionally, a 2010 law requiring the government to issue certificates of adoption availability for all children to be placed domestically and internationally addressed trafficking, and assigning availability determinations to an administrative body, instead of the courts, shortened processing time from five years to two.

India noted that it implemented a “strict measure” prohibiting donations even though “sometimes [agencies] may be expecting some donations, but no parent or no foreign agency can give any donation except for a fee.” Lagos reported scrutiny and investigations of adoption applications and documentation enable fraud and corruption identification and render “the possibility of inducement ... remote if not totally eliminated.” Because of these safeguards, Lagos authorities have detected “many fraudulent applications and fake approval documents.”

COOs and RCs alike have circumscribed private<sup>26</sup> and independent<sup>27</sup> adoptions, if not prohibited them, though it is not clear if these countries utilize the Hague Conference definitions. India issues penalties for informal adoptions. Poland allows private and independent adoptions “under special circumstances,” after application to a court and meeting documentation and procedural requirements. In Lagos, a 2007 law prohibits private and independent adoptions.

Australia remarked that private and independent adoptions “are very, very difficult for us” and strongly cautions citizens against pursuing them, warning that a child will be refused an entry visa unless the adoption arrangement meets migration requirements. It noted that these requirements should ultimately detect instances of parents trying to circumvent the Convention system by using private or independent adoption through COOs’ domestic adoption procedures.

Belgium found that “a big improvement” post-Convention is that prospective adoptive parents must go through an adoption agency, whereas previously many had gone through the process without them. Some Canadian jurisdictions prohibit private and independent adoptions, while others allow them, and some permit them in the best interests of the child if there has been bonding with the prospective parents. The federal authority, however, maintains the Permanent Bureau’s perspective that private and independent adoptions undermine the Hague Convention. Since 1998, Ireland has banned private adoptions and independent adoptions “are in a minority since the enactment of the Hague convention.”

Finland, Norway and Sweden remarked that independent adoption is better regulated under the Convention. Finland tightened its laws around independent adoptions; courts can no longer

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<sup>26</sup> The Guide to Good Practice defines private adoptions as “one where arrangements for adoption have been made directly between a biological parent in one Contracting State and prospective adopters in another Contracting State. Private adoptions arranged directly between birth parents and adoptive parents come within the scope of the Convention if the conditions set out in Article 2 are present (inter alia, the child has been, is or will be moved from the State of origin to the receiving State), but such adoptions are not compatible with the Convention.

<sup>27</sup> The Guide to Good Practice defines independent adoption as “those cases where the prospective adoptive parents are approved as eligible and suited to adopt by their Central Authority or accredited body. They then travel independently to a country of origin to find a child to adopt, without the assistance of a Central Authority or accredited body in the State of origin. Independent adoptions, as defined, do not constitute good practice. They do not satisfy the Convention’s requirements and should not be certified under Article 23 as a Convention adoption.

confirm independent adoptions finalized in COOs. Norway stated that for parents who want to adopt a child from their home country, the Central Authority assumes the role of the accredited provider, while private adoptions are not permitted. Sweden's Central Authority approves Convention independent adoptions (without accredited provider involvement) on a case-to-case basis; most are relative adoptions.

Spain does not allow private adoption and the applications can be proceed either by accredited bodies or by Spanish Central Authorities of both countries. There are no Hague independent adoptions in the U.K., and the U.S. noted that "private and independent adoptions are not consistent with the Convention" because immigration eligibility must be determined before children are matched with prospective parents.

Many RCs also stated that with Convention implementation, transparency has mitigated fraud and corruption. Canada said there was "a certain level of assurance that the Hague defined processes safeguard children being placed for adoption." Ireland, the U.K. and the U.S. agreed that standards and transparency around fees is a Convention benefit. Spain and the Philippines found the Hague Conference sponsorship of a group of experts who studied the financial aspects of adoption, including costs in COOs and fees charged to RC prospective parents, to be helpful (findings to be released).

Denmark applies extra safeguards in Ethiopia, for example, to ensure that a child's biological parent is in fact deceased or when children have biological families, Danish-accredited providers are required to visit the birth parents to ensure they understand the implications of surrendering their parental rights.

Ireland and the U.K. also reported that accreditation addressed fraud and corruption. The former stated that implementation of standards reduced the risk of trafficking, "there have been less concerns to date about fraud and corruption" after ratification in 2010, and a best practice is "use of [an] Irish-accredited agency within specific countries to reduce risks of corruption." The U.K. mentioned that Convention benefits are transparency and procedural improvements in both COOs and RCs, and transparency regarding cost "has helped a great deal." Denmark and the U.S. said transparency ensured providers met certain standards of conduct, with the latter noting that "it's allowed for a culture of ethical conduct ... to preserve intercountry adoption as a viable means for providing loving homes for children in need" and "applied rules and ethical conduct to how we identify those children in need." Norway stated that it is a "very important point that the consent to adoption [by biological parents] is informed," meaning that they have been properly informed about the legal effects of the adoption before they give their consent.

### **Remaining Convention Implementation Challenges**



No countries reported negative implications of putting in place safeguards against abduction and trafficking. A handful, however, noted remaining challenges to ensure full implementation, primarily around regulating financial aspects of adoption, such as costs, fees and donations.

Colombia indicated that it is difficult to regulate agency fees and disbursements and that it is not aware of what other countries' adoption fees are, noting that standards need to be defined with regard to charges and costs. The latter comment was echoed by the Philippines, which said that a challenge was determining costs in COOs and fees charged to adoptive parents in RCs. India found that unethical practices and domestic corruption are still concerns.

Canada noted that determining reasonable fees is "wholly subjective," with a possible solution being capped fees. As with Canada, Spain expressed concern about financial issues, stating that in some cases there may be not enough communication between Central Authorities about costs and a clear separation between donations and fees in order to curb financial abuses. Norway also said it was unclear what donations should and should not be permitted, and that "some countries insist that the adoption organization must give some support to some kind of project in order to be allowed to mediate children for adoption from that country." It said that it was important that the guides to good practice had dealt with many issues, but there remains a need for additional ones on subjects such as improper financial gain and determining appropriate fees and donations. Spain suspends adoptions from COOs if it finds they are not complying with Convention requirements.

Switzerland described that in cases for which it had corruption concerns, it did not involve birth mother coercion, but payment demands by COO competent authorities (e.g., judges) for cases to proceed, but "it's not a current problem in most cases." It requests information from providers during accreditation regarding cost, with the goals of transparency and to understand the bases for fees. Switzerland also noted that, in terms of fraud and corruption, it had no evidence to suggest that it was any safer to use an accredited provider versus not doing so in independent adoptions or working with a Hague COO as opposed to a COO that hadn't ratified the treaty.

Australia noted that different fees charged by its states and territories, depending on how much of the cost of its service provision is recovered (through tax revenues and fee-for-service), is a challenge; in essence, costs are subsidized by the state and parents do not know the true costs.

## **Country Cooperation**

Under the Convention, cooperation between countries' Central Authorities and public and private agencies regarding Convention procedures, as well as among States and Central Authorities, is intended "to prevent abuses and avoidance of the Convention." The Guide to Good Practice notes that the Convention provides that RCs and COOs "must share equally the

burdens and benefits of developing a stricter regime to safeguard the interests of children who are the subject of intercountry adoptions” and “should also work together to determine whether receiving countries can usefully provide assistance to countries of origin.”

In response to questions, most COOs and RCs stated that the Convention resulted in more cooperation among countries with which they have adoption partnerships. COOs and RCs alike also mentioned country non-signatory status as an issue. In practice, many RCs incorporate Hague rules for adoption processes in non-Convention countries. Three countries – Poland, Denmark and Norway – mentioned obstacles to HCIA-compliant ICA because of the frequency and ease of mobility in Europe.

### **Best Practices of Convention Implementation**

Colombia noted that the Convention “organiz[es] our relationship with other countries,” providing one authority instead of several with which to communicate. Another benefit is that it better understands its role and that of its counterparts, particularly RC assessment of adoptive families and Colombian courts’ legal processes and authority’s provision of information. India also stated that there is “more of a working relationship” with other country Central Authorities, which establishes more accountability. The Philippines remarked that its participation with the Permanent Bureau, in addressing concerns in Vietnam and Cambodia, was useful.

COOs and RCs alike (e.g., the Philippines, Norway) noted the Hague Conference on Private International Law’s Guides to Good Practice as being useful. Several RCs cited greater cooperation among nations (Canada, Finland, Norway, Spain, Switzerland and the U.K.). Australia pointed to its role in leading a working group that developed a discussion paper on the Cooperation between Central Authorities to develop a common approach to preventing and addressing illicit practices in ICA. Spain also mentioned that there has been a gradual increase in the coordination and exchange of information in the processing of adoptions with COO central authorities. Finland, Spain and Switzerland identified communication and cooperation with central authority partners as a useful safeguard. Switzerland also noted that the same standards and responsibilities among countries enable greater cooperation and problem solving. Canada found that Permanent Bureau-led initiatives and special commissions have facilitated multilateral communication and cooperation. Additionally, it stated that communication internally among its states was critical. With Convention COOs, the U.K. stated that “the process seems to work pretty well” and is predictable, explainable and understandable.

In practice, many countries incorporate Hague rules for adoption processes in non-Convention countries. Australia’s non-Convention country programs, such as in South Korea and Taiwan (it closed its program with Ethiopia), attempt to apply “equivalent protections” as it does with

Convention countries; the U.K. does as well. Similarly, Norway “tries in many ways to make sure that the co-operation will be in compliance with the Convention;” regarding nations that have not ratified the Convention, “we make sure that our cooperation with that country is within the standards of the convention.” Norway stated it has “a strong focus” on ensuring safeguards are in place to protect children and birth families in non-Convention countries through accredited providers’ application and renewal processes. The U.K.’s law requires a process similar to the Hague process for non-Hague adoptions. Among COOs, Latvia explained that a 2009 amendment to its child safety law mandates that it only work with RCs that had ratified the Convention or have signed a bilateral agreement with Latvia.

Belgium said it works primarily with non-Convention COOs and it (as well as Denmark) has noticed that Permanent Bureau and NGO participation in improving the adoption system in Ethiopia has yielded results. The U.S. noted that it was assisting Ethiopia and Haiti in introducing Convention principles and building child welfare protection systems.

### **Remaining Convention Implementation Challenges**

Among COOs, Colombia indicated it had difficulty dealing with non-Convention countries due to process and communication problems, including not being certain about family selection and post-adoption circumstances. It also said RC “providers don’t let families have contact with us directly,” causing the Central Authority to “think[] lots of things of why don’t they like that.” Other issues that Colombia mentioned as obstacles are that it does not permit adoption by same-sex couples as in other countries and it is difficult to manage U.S. states’ differing policies on family selection. The Philippines suggested more countries ratify the Convention, especially in Asia, and it also remarked on the “pressure on sending countries to produce children to meet the demands.”

Australia pointed out that country coordination was designed to prevent the abduction, sale of, or trafficking in children for ICA, though there are some cases where illicit practices occur and a child is illegally obtained for adoption. Denmark reported that some countries, in trying to safeguard the relinquishment and other crucial steps in the adoption process, are creating more bureaucracy that may have drawbacks such as added risk of irregularities and bribery. Spain said there can be a lack of communication and coordination between Central Authorities. Switzerland also noted that some partner countries are not very “present” in the adoption process, elaborating that it has “to insist very much to get responses and to get substantive answers” from COOs.

Spain said that with some non-Convention countries, if adoption applications are processed through the two competent authorities (rather than through accredited bodies), the matching proposal is received directly by prospective adoptive parents and the Spanish-competent authorities do not approve this placement. Spain recommended that RC and COO Central

Authorities exchange evaluation reports on ICA experience and indicated there is limited coordination among RCs and COOs in terms of monitoring the activity of accredited bodies; it suggested that cooperation should be reinforced.

Like COOs, some RCs also mentioned non-Convention status as an issue. Norway explained that some people might consider it a negative effect that it cooperate only with countries that have ratified the Convention, unless the adoption is conducted in conformity with the Hague. To ensure that such a COO complies with the Convention, Norway does due diligence through its embassies and other RCs; while this policy has resulted in fewer COOs as partners, Norway has been able to cooperate with South Korea and Ethiopia, for example. On the other hand, it has excluded Russia, as it will not provide information about children to the Central Authority (only the prospective adoptive parents). Switzerland said cases with non-Hague countries are “more complicated,” so most prospective adoptive parents use accredited providers.

Three countries mentioned that frequency and ease of mobility in Europe could be seen as an obstacle to the proper implementation of the Convention. As a COO, Poland explained the Convention “is not completely covering the issues we deal with because of the freedom of movement and freedom of settlement in the European Union.” For example, Polish citizens who move to other European countries, but travel to Poland to adopt a child outside of the Convention process, raise issues of recognition of Polish adoption decrees by other countries. It also noted that it was lacking information about the number of children adopted in each RC, as families move to different European countries. Denmark cited a lack of guidance on habitual residence, domicile and citizenship status in general and as it relates to step-child adoptions, and suggested that the Permanent Bureau develop more guidance on those issues. Norway also noted that EU countries’ various definitions of habitual residence (it is based on domicile), with families moving to or working in different countries, create a challenge.

Canada said some adoptions are designed to circumvent the Convention. It cited finalizations in COOs that use citizenship, instead of habitual residence, to categorize adoptions as domestic and non-citizen residents obtaining domestic adoption orders.

Australia said that with its federal system, there are slight inconsistencies with different forms and procedures and “one of the big challenges we always face is that often the [Australian] states and territories have different laws” and adoption procedures that we are seeking to harmonize, which can be “quite difficult” for COOs. Similarly, Lagos, Nigeria stated a barrier was standardizing the adoption process.

### **Central Authorities and Accredited Providers/Bodies**

The Guide to Good Practice defines the Central Authority as “the office or body designated by a Contracting State in accordance with Article 6, to perform certain mandatory functions in

Articles 7, 8 and 33 of the Convention,”<sup>28</sup> as well as functions in Articles 9, and 14-21,<sup>29</sup> unless another body (a public or accredited body) is authorized to perform those functions. It provides that an accredited body is “an adoption agency which has been through a process of accreditation in accordance with Articles 10 and 11; which meets any additional criteria for accreditation which are imposed by the accrediting country; and which performs certain functions of the Convention in the place of, or in conjunction with, the Central Authority.”

In 2013, the Hague Conference published “Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice,” to:

- “emphasis that the principles and obligations of the Convention apply to all actors in Hague Convention intercountry adoptions
- clarify the Convention obligations and standards for the establishment and operation of accredited bodies
- encourage acceptance of higher standards than the minimum standards of the Convention;
- identify good practices to implement those obligations and standards; and
- propose a set of model accreditation criteria which will assist Contracting States to achieve greater consistency in the professional standards and practices of their accredited bodies.”<sup>xliv</sup>

Interview countries primarily discussed the role their Central Authority, in particular whether it grants accreditation and authorization to adoption bodies and/or if it has obligations in respect of particular adoptions – or if, instead, it has delegated them to competent authorities, public authorities, accredited bodies and approved (non-accredited) persons. They also noted how many accrediting entities they have (typically very few) and the number of authorized providers (in many cases, a relatively small number). Countries with federal government systems also noted the interplay between federal and state/regional agencies. COOs have found only a couple of challenges with Convention-competent authorities. A few RCs indicated some COOs’ transitions to Hague status have been slow and uneven, creating some cooperation issues.

### **Best Practices of Convention Implementation**

Colombia has eight approved service providers and “for the moment we think that we have more service providers than we need, so we stopped accepting service providers.” Of foreign

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<sup>28</sup> In summary these functions are: cooperation with other countries, preventing improper financial gain, and oversight. [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=69](http://www.hcch.net/index_en.php?act=conventions.text&cid=69)

<sup>29</sup> In summary these functions are: facilitating and safeguarding adoption procedures and placements. [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=69](http://www.hcch.net/index_en.php?act=conventions.text&cid=69)

service providers operating there, there are 24 from the U.S., 23 from Italy and three or four each from several countries.

India said there are child protection units at the state and district levels, though these were only created informally in 2009, and there is more reporting. As of November 2012, its Central Authority had approved 72 agencies to provide intercountry adoption services. All of India's adoption agencies participate in its online system that records children's availability and status. Lithuania said that accreditation laws provide a means of oversight because the Central Authority reviews and evaluates the 14 approved providers' activity reports annually and accredits providers for only three years. On the other hand, Latvia's Central Authority is the only provider, which is expected to reduce any fraud or corruption concerns. Poland said a foreign agency's accreditation letter from its Central Authority satisfies its requirements. About 30 accredited foreign adoption agencies operate in Poland (11 from the U.S., 10 from Italy, two from Spain, and one each from Sweden, Germany, Canada, the Netherlands, France and Belgium).

The Philippines said it is "one of the few countries where we do not require, actually we discourage, the presence of the adoption agencies in the country" and it does not require an in-country or local presence. It also only accredits agencies that are accredited in their own countries and have "a good track record." If foreign agencies heavily support domestic child-caring agencies with ongoing financial support, the latter are prohibited from matching children with the former.

Lagos, Nigeria, which has not ratified the HCIA, has four domestic and two ICA providers. It identified the following best practices to improve the process: direct relationships between and among countries, practice standardization and revision of laws to reflect common principles, credible involvement of reputable international agencies and "endurable and supportive government participation and scrutiny." Lagos indicated it adheres to the Convention, stating: "These national laws [Childs Rights Act 2005 and Childs Rights Law of Lagos State 2007] and domestic central regulations, public policies and Child protection policies and laws are bounded by related respective international conventions and are also recognized ipso jure [by the law itself]."

As for RCs, Australia's Central Authority has taken on a "broad and strategic" role since 2007, creating "more consistency in the different systems across Australia" and managing and assessing programs, as well as starting new ones. It performs at a country-to-country level, for example having been "quite heavily involved until we recently closed our Ethiopia program." It also has an ICA advisory group, with some stakeholder representatives, including parents, academics, professionals and adoptees, that advises the Australian Government on ICA matters. Australia currently does not have any accredited service providers, so its state and

territory child welfare and child safety departments are responsible for managing applications, as well as evaluating, educating and liaising with parents.

Belgium has three central authorities that all have ombudsmen – one federal, one each for the Flemish and French communities. The federal authority rules on parent suitability and provides recognition of finalized adoptions, while the community authorities provide pre- and post-adoption services to families and accredit providers. There are five accredited adoption service providers, though Belgium is unsure whether accreditation has addressed concerns about fraud and corruption, as many adoptive parents did not use agencies before Convention ratification. Canada also has a federal and 13 provincial and territorial Central Authorities.

Denmark's Central Authority has accredited only two adoption providers – nonprofit organizations that are heavily regulated and “under quite strict supervision.” Finland has three accredited providers, and the Central Authority serves as the accrediting entity. It conducts oversight by contacting other RC and COO embassies for information about COOs, getting in touch with COOs to make sure they are meeting legal standards, and holding meetings with accredited agencies. Similar to Finland, Ireland has two accredited providers and its Adoption Authority serves as the accrediting entity, enforcing provider regulations and providing “clarity and consistency” for parents and nations; draft agency standards to prevent fraud and corruption are awaiting finalization.

Norway explained that municipal public authorities (normally local Child Care Offices) perform home studies and forward parents' adoption applications for advance approval to the regional Directorate for Children, Youth and Family Affairs. The regional office then issues the necessary advance approval if it finds that the prospective parents are suitable and eligible to adopt. Only after it approves prospective families does the government provide the report to accredited providers, as it views accredited providers performing home studies as not complying with Article 5 of the Convention (concerning parent eligibility) since “they have an interest in including as many families as possible.” Norway said the reason countries like China and Philippines have requested additional documents on prospective parents might be that some RCs' accredited providers “have an active role in determining whether the families are suited to adopt or not.” It has also modified its procedure to include not only advance approval of prospective adoptive parents, but also approval after it receives information about the child.

Spain has 42 accredited bodies working in both COOs that have ratified and those that haven't ratified the Convention. Spain also said it is necessary to reinforce RC and COO Central Authorities' coordination to determine the number of accredited bodies and monitor their activity. Spain recognized the Hague Conference Guide to Good Practice No. 2 on accredited bodies as a helpful technical document that cites useful data.

Sweden already accredited its adoption providers before the Convention and requires providers to obtain general accreditation to arrange ICA and also accreditation specific to the particular COO for which it has programs. It currently has five accredited bodies. Sweden performs routine oversight of accredited providers by requesting documents, making annual visits, reviewing cases, holding twice yearly meetings, engaging in almost daily contact, and receiving reports about their trips to COOs.

Like several other RCs, Switzerland has a federal system with a federal authority that implements policy and communicates with COOs, and 26 local Central Authorities that deal directly with children and prospective parents, and essentially function as accredited providers. The local, versus federal, authorities offer an advantage in that they are closer to prospective adoptive parents and “there’s a close relationship between authorities and future adoptive parents and you get to know things” you might not if authorities covered larger territories. Switzerland, however, does not require prospective adoptive parents to use accredited bodies (there are about 20 NGO accredited bodies, in addition to the public ones) and about 40 percent of parents do not. All pre-adoptive parents must obtain approval to adopt from their local Central Authority and then can choose to work with an accredited provider to prepare and transmit their files to COOs and support them in COOs, or not (generally in cases with Convention countries). Switzerland notes: “At the same time, it’s also challenging because 26 Central Authorities do not work always the same way, especially in relation to other countries;” it requires coordination.

Similarly, the U.K.’s local authorities also act as adoption agencies, and its education standards body accredits voluntary sector adoption agencies (currently 3-5), which it also inspects on a regular basis, as it does local authorities. The U.K. found that “where adoptions are going through proper adoption agencies and ourselves as essential authority, I think everything seems to be working very much as it should.”

The U.S. has “seen standards of conduct really improve” with accreditation, which has “really been successful.” Its efforts to require all providers to be accredited, even for programs in non-Convention countries, would assure parents that all accredited providers meet service standards. The U.S. explained that “the success of the Hague accreditation process is showing people why expanding that protection to all parents [through universal accreditation] adopting from all countries would be a huge benefit” in “that whatever adoption service provider they choose will have a certain standard of conduct.” The U.S. also noted that it does not track complaints from pre-adoptive parents or provider noncompliance that the accrediting body identifies.



## **Remaining Convention Implementation Challenges**

COOs only mentioned a couple of challenges with Convention-competent authorities. India has over 600 districts, all of which are required under law to have a special adoption agency; and the Juvenile Justice Act, amended in 2006 after Convention ratification still does not fully address adoption procedure, though new amendments to the law were under consideration. Poland identified practitioner complaints about complying with the detailed laws.

Australia observed that “some countries have felt that they needed to join the Convention before they were actually ready to; and, therefore, by joining it and then not being able to implement it effectively, in some ways it gives the Convention a bad name.” It also stated that not only must a country’s legal system have the capacity to implement laws, but non-government institutions must as well. Canada echoed that sentiment, finding that “COOs that do not have Hague-compliant intercountry adoption infrastructure can still sign, ascend or ratify the Convention” – and for COOs that have not ratified the Hague, “the onus is on Canada to ensure the Convention’s procedures and safeguards are effectively applied in those adoptions, which is not entirely possible.” It indicated that it is difficult to confirm COO adherence to standards such as birth parent consent, subsidiarity, provider legitimacy and financial transparency.

Denmark cautioned against too much bureaucracy in COOs because “The more levels you implement and enforce or establish, the risk also goes with it. There’s more levels where something can go wrong and something can be manipulated. It makes it also more difficult to supervise.” Denmark recommended that the Permanent Bureau develop more-detailed positions in guides to good practice on the definition of “prompt” relating to issuing certificates of conformity, as it prevents children from having their adoptions recognized in other countries. Spain also noted that some nations do not issue certificates of conformity in line with Convention Article 23, and some COO Central Authorities and weak systems of protection prevent them from complying with HCIA standards. It also remarked that monitoring accredited providers was a problem.

The U.K. and U.S. explained that transition from non-Hague to Hague status has not been easy for some countries. The U.S. said some countries did not yet have the procedures and institutions to prevent abuse and to maintain ethical standards, so “the effort now is to look at those countries and say, ‘Okay, how can we help you build those structures?’ ” It collaborates with countries to ensure that they are ready to ratify the convention and that the transition “is more smooth.”

## Conclusion & Recommendations

The Hague Convention has been in force for nearly 20 years and has been ratified by 90 countries. Research and interview responses indicate that some challenges remain and, in some cases, safeguards are inadequate as implemented.

In general, COO and RC professionals reported that the treaty has facilitated the development of national frameworks and laws, clearer rules, streamlined processes and/or increased cooperation among them. COOs and RCs identified relatively few challenges associated with HCIA's implementation. Overall, analysis of interview responses indicates that some countries find Convention terms, such as "subsidiarity," vague and without proper implementation guidance. Additionally, it is not clear that countries consistently utilize standard terms that have the same definitions, e.g., special needs and financial terms, such as expenses, costs, fees, donations and contributions.

In recent years, there has been increased incorporation of the children's best interests and subsidiarity principles in both COOs and RCs, including more focus on encouraging domestic adoption in COOs and fewer intercountry adoptions. ICA placements of children with special needs, however, have been increasing and some RCs have experienced decreases in domestic adoptions.

Overall, global ICA has dropped by nearly 50 percent (48%) from 2004 to 2011 – from a high of 45,298 to 23,609. Only a combined 260,000 children are adopted domestically and internationally around the world each year. Yet there are more than 15 million children worldwide who are parentless, in temporary placements, or in institutions without safe, loving, permanent families.

It is incumbent on policymakers, practitioners and funders to increase efforts to place children without homes in permanent families as expeditiously as possible, in conformity with the Convention's best interests of the child standard and subsidiarity principle.

To that end, and based on COO and RC interview responses and comments, recommendations for consideration in improving Convention and domestic policy implementation for COO and RC Central Authorities, non-Hague Child Welfare Ministries, as well as multilateral institutions, such as UNICEF and the Hague Permanent Bureau, include:

- Increasing independent international oversight and enforcement of country Convention implementation to identify and rectify noncompliance,
- Developing standard Convention monitoring and evaluation standards for international and country review and assessment of accrediting entities and bodies/providers,

- Establishing efficient channels of communication to report what works, what doesn't and complaints, between and among Central Authorities,
- Convening countries (COOs and RCs that have ratified and are preparing to ratify the Convention) to identify challenges and solutions,
- More clearly defining standards around subsidiarity, informed birth parent consent, costs/fees/donations, recordkeeping (around communication with birth families, and pre- and post-adoption reporting on children),
- Identifying and sharing of best practices through specific case studies published by an independent, expert body,
- Improving COO recordkeeping (including birth registrations) of the numbers of children in need of placement and their circumstances,
- Including family care in the best interests of children and in conformity with Hague principles as an objective of the Sustainable Development Goals (successors to Millennium Development Goals),
- Encouraging receiving countries to coordinate national interagency policy and funding for child welfare infrastructure and development in countries of origin,
- Developing models for COOs to build child welfare infrastructure to enable foster care versus institutionalization for temporary care and domestic adoption,
- Creating an international funding mechanism to assist COOs in building child welfare systems (similar to funds that address global health issues, e.g., Global Fund to Fight AIDS, Tuberculosis and Malaria), and
- Explore establishing Development Impact Bonds<sup>30</sup> or cash-on-delivery<sup>31</sup> official development assistance for child welfare infrastructure funding in COOs.

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<sup>30</sup> Development Impact Bonds “provide upfront funding for development programs by private investors, who would be remunerated by donors or host-country governments—and earn a return—if evidence shows that programs achieve pre-agreed outcomes.” Center for Global Development, <http://www.cgdev.org/initiative/development-impact-bonds-0>.

<sup>31</sup> With cash-on-delivery (COD) assistance “donors would pay for measurable and verifiable progress on specific outcomes.” COD “link[s] payments directly to a single specific outcome, allowing the recipient to reach the outcome however it sees fit, and assuring that progress is transparent and visible to the recipient’s own citizens. These features rebalance accountability, reduce transaction costs, and encourage innovation.” Center for Global Development, <http://www.cgdev.org/initiative/cash-delivery-aid>.

## Appendix 1: Central/Adoption Authority Policymakers Interviewed

### **Countries of Origin**

#### **Colombia**

Mr. Camilo Dominguez  
Children Protection Director  
The Colombian Institute for Family Welfare

#### **India**

Dr. Jagannath Pati  
Deputy Director  
Public Information Officer  
Central Adoption Resource Agency

#### **Latvia**

Ms. Beate Bockane  
Official of the Department of Children and Family Politics  
Ministry of Welfare

#### **Lithuania**

Ms. Odeta Tarvydienė  
Director  
State Child Rights Protection and Adoption Service

#### **Nigeria (Lagos State)**

Dr. Dolapo Badru  
Special Adviser to the Governor on Youth and Social Development  
Ministry of Youth, Sports & Social Development  
Lagos State, Nigeria

*The Philippines*

Ms. Bernadette B. Abejo  
Executive Director  
Inter-Country Adoption Board

*Poland*

Ms. Aleksandra Kowalczyk  
Expert  
Family Policy Department  
Ministry of Labour and Social Policy

**Receiving Countries**

*Australia*

Mr. Peter Arnaudo  
Assistant Secretary  
Marriage & Intercountry Adoption Branch  
Attorney-General's Department

Ms. Jenny Degeling  
Principal Legal Officer and Special Adviser on Intercountry Adoption  
Attorney-General's Department

Ms. Virginia Wilson  
Principal Legal Officer  
Marriage and Intercountry Adoption Branch  
Attorney-General's Department

*Belgium*

Ms. Anne-Marie Flo  
Political Adviser  
Minister of Justice

Canada

Ms. Jennifer Jang  
Senior Analyst  
Intercountry Adoption  
NHQ - Operational Management and Coordination  
Citizenship and Immigration Canada

Denmark

Ms. Sanne Odgaard  
Head of Section  
National Social Appeals Board  
Division of Family Affairs  
Ministry of Justice

Finland

Ms. Jonna Salmela  
Senior Officer  
The Finnish Adoption Board  
National Supervisory Authority for Welfare and Health

Ireland

Ms. Celia Loftus  
Principal Social Worker  
Adoption Authority of Ireland

Norway

Mr. Morten Stephansen  
Deputy Director General  
Norwegian Directorate for Children, Youth and Family Affairs

Spain

Ms. María Jesús Montané  
Chief of Adoption and Protection  
Directorate General of Family and Children  
Ministry of Health, Social Services and Equality

Sweden

Mr. Lars Bertil Svensson, retired  
Legal Adviser  
Swedish Intercountry Adoptions Authority

Switzerland

Mr. David Urwyler  
Head of Child Protection Central Authorities  
Federal Office of Justice  
Deputy Head of International Private Law Unit  
Private Law Division

The United Kingdom

Ms. Mary Lucking  
Adoption Policy and Strategy  
Children's Services and Departmental Strategy Directorate  
Department for Education

The United States

Ms. Beth Payne  
Director  
Office of Children's Issues  
Bureau of Consular Affairs  
State Department

## Appendix 2: Study Countries of Origin and Receiving Countries

(of which interviews were requested)

### **Countries of Origin**

Belarus  
Brazil  
Bulgaria  
Chile  
China  
Colombia  
Ethiopia  
Ghana  
Guatemala  
Haiti  
India  
Kazakhstan  
Latvia  
Liberia  
Lithuania  
Nigeria  
Peru  
Philippines  
Poland  
Republic of Korea  
Romania  
Russia  
Sri Lanka  
Thailand  
Ukraine  
Vietnam



**Receiving Countries**

Australia

Belgium

Canada

Denmark

Finland

France

Germany

Ireland

Italy

Netherlands

Norway

Spain

Sweden

Switzerland

UK

USA

## Appendix 3: Selected Interview Questions

### **All Countries**

- What positive and negative changes have you observed in intercountry adoption as a result of implementation of the 1993 Hague Convention?
- What has worked/what hasn't with Hague implementation?
- Are there any discrepancies between national laws and regulations and actual provider practice?
- Are there areas where expected improvements have not happened? If so, what are these and what remedies do you think are still needed to address these issues?
- How are Hague standards enforced?
- Has service provider accreditation addressed any concerns about fraud and corruption? How many accredited providers are there?
- What, if any, best practices have you identified that have enabled Hague Convention implementation and/or improved intercountry adoption processes?
- What proportion of children adopted internationally are "special needs" and has that number increased in recent years?
- What role do private and independent adoptions play?
- How many children are adopted domestically each year? Has the number changed since implementation of the Hague Convention?

### **Sending Countries Only**

- What are the short- and long-term objectives of child welfare and adoption policy and strategies to meet them? Do goals differ by children's age?
- About what proportion of institutionalized children's parents cannot care for them primarily because of poverty?
- How many children live in orphanages? How many orphanages are there? How are orphanages regulated?
- How many children are living with "foster" families?
- What are the status and minimum standards of Hague Convention implementation and have those been met, (especially regarding child legal availability/birthparent inducement)?

### Receiving Countries Only

- What are the primary reasons prospective adoptive parents choose intercountry adoption?  
Are there policy reasons that parents choose intercountry adoption?
- What are average fees and time from application to finalization?
- Are there any outgoing adoptions?

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<sup>i</sup> Citing Selman. 1948-2010. Jessaca Leinaweaver, International Adoption from an Anthropological Demography Perspective: Growing Families or Adding Migrants? (2013) <http://paa2013.princeton.edu/papers/130042>.

<sup>ii</sup> Charlotte Phillips, "Intercountry adoption - controversies and criticisms," International Association of Youth and Family Judges and Magistrates (July 2013), available at [http://www.africanchildinfo.net/index.php?option=com\\_sobi2&sobi2Task=sobi2Details&sobi2Id=1274&Itemid=137&lang=en#.Ue0-mD5ASb8](http://www.africanchildinfo.net/index.php?option=com_sobi2&sobi2Task=sobi2Details&sobi2Id=1274&Itemid=137&lang=en#.Ue0-mD5ASb8).

<sup>iii</sup> Hague Conference on Private International Law, Brochure and Explanatory Report on the Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption <http://www.hcch.net/upload/brochure33en.pdf>, <http://www.hcch.net/upload/exp133e.pdf>

<sup>iv</sup> Hague Conference on Private International Law, Frequently Asked Questions, [http://www.hcch.net/index\\_en.php?act=faq.details&fid=5](http://www.hcch.net/index_en.php?act=faq.details&fid=5)

<sup>v</sup> See Article 21, Convention on the Rights of the Child (1989) <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

<sup>vi</sup> Hague Conference on Private International Law, Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption (Concluded 29 May 1993) available at [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=69](http://www.hcch.net/index_en.php?act=conventions.text&cid=69).

<sup>vii</sup> Hague Conference on Private International Law, The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention: Guide to Good Practice Guide No 1 (2008) [http://www.hcch.net/upload/adoguide\\_e.pdf](http://www.hcch.net/upload/adoguide_e.pdf)

<sup>viii</sup> Hague Conference on Private International Law, The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention: Guide to Good Practice Guide No 1 (2008) [http://www.hcch.net/upload/adoguide\\_e.pdf](http://www.hcch.net/upload/adoguide_e.pdf)

<sup>ix</sup> Better Care Network Toolkit, <http://www.crin.org/bcn/toolkit/>.

<sup>x</sup> UNICEF, Press Centre, Orphans, [http://www.unicef.org/media/media\\_45279.html](http://www.unicef.org/media/media_45279.html).

<sup>xi</sup> 16 million: Sub-Saharan Africa (7.7 million), Asia (7.9 million), Latin America and the Caribbean (600,000). "Recent household surveys show that in the countries of southern Africa, maternal orphans are especially likely to be 'virtual' double orphans, as it is common for the father to live elsewhere." UNAIDS, UNICEF, USAID, Children on the Brink 2004 (July 2004) [http://www.unicef.org/publications/files/cob\\_layout6-013.pdf](http://www.unicef.org/publications/files/cob_layout6-013.pdf). [http://www.unicef.org/media/media\\_45279.html](http://www.unicef.org/media/media_45279.html) (13 million).

<sup>xii</sup> 5,018,100. Due to all causes, as of 2007 (latest data available). Children and AIDS Country Fact Sheets 2009 (Dec. 2009), citing UNAIDS 2008, available at [http://www.unicef.org/publications/files/Children\\_and\\_AIDS\\_CFS\\_EN\\_011810.pdf](http://www.unicef.org/publications/files/Children_and_AIDS_CFS_EN_011810.pdf). Data for three of the study countries, Latvia, Lithuania and Poland, are not available from UNICEF.

<sup>xiii</sup> Better Care Network/UNICEF, Manual for the Measurement of Indicators for Children in Formal Care (Jan. 2009) <http://bettercarenetwork.org/docs/Formal%20Care%20Guide%20FINAL.pdf>; Better Care Network, <http://www.crin.org/BCN/FormalCareIndicators.asp>.

<sup>xiv</sup> Estimates indicate that about 1.5 million children in Central and Eastern Europe and the Commonwealth of Independent States live in public care, and over one million live in residential

institutions in Europe and Central Asia. UNICEF, Children Without Parental Care, [http://www.unicef.org/chinese/protection/files/Parental\\_Care.pdf](http://www.unicef.org/chinese/protection/files/Parental_Care.pdf).

<sup>xv</sup> UN Department of Economic and Social Affairs, Population Division, Child Adoption: Trends and Policies (2009), available at [http://www.un.org/esa/population/publications/adoption2010/child\\_adoption.pdf](http://www.un.org/esa/population/publications/adoption2010/child_adoption.pdf).

<sup>xvi</sup> Juffer, Palacios et al., 2011.

<sup>xvii</sup> Hoksbergen, 1999; Triseliotis, 2002; Selwyn & Quinton, 2004; van IJzendoorn & Juffer, 2005; Lee, Seol, Sung, & Miller, 2010.

<sup>xviii</sup> UNICEF's position on Inter-country adoption, New York, 22 July 2010, available at [http://www.unicef.org/media/media\\_41918.html](http://www.unicef.org/media/media_41918.html).

<sup>xix</sup> Young, A. (2012). Developments in intercountry adoption: From humanitarian aid to market driven policy and beyond. *Adoption & Fostering*, 36(2), 67-77.

<sup>xx</sup> Rotabi, K. S., & Gibbons, J. (2012). Does the Hague convention on intercountry adoption adequately protect orphaned and vulnerable children and their families?. *J Child Fam Stud*, 21, 106-119.

<sup>xxi</sup> UNICEF's position on Inter-country adoption, New York, 22 July 2010, available at [http://www.unicef.org/media/media\\_41918.html](http://www.unicef.org/media/media_41918.html).

<sup>xxii</sup> United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons 2012 (Dec. 2012), available at [http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking\\_in\\_Persons\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf)

<sup>xxiii</sup> Selman, P. (2013) Key Tables for Intercountry Adoption: Receiving States 2003-2012; States of Origin 2003-2011, Oct. 7, 2013, [http://www.hcch.net/index\\_en.php?act=publications.details&pid=5891&dtid=32](http://www.hcch.net/index_en.php?act=publications.details&pid=5891&dtid=32)

<sup>xxiv</sup> Selman, P. (2013) Key Tables for Intercountry Adoption: Receiving States 2003-2012; States of Origin 2003-2011, Oct. 7, 2013, [http://www.hcch.net/index\\_en.php?act=publications.details&pid=5891&dtid=32](http://www.hcch.net/index_en.php?act=publications.details&pid=5891&dtid=32)

<sup>xxv</sup> Selman, P. (2013) Key Tables for Intercountry Adoption: Receiving States 2003-2012; States of Origin 2003-2011, Oct. 7, 2013, [http://www.hcch.net/index\\_en.php?act=publications.details&pid=5891&dtid=32](http://www.hcch.net/index_en.php?act=publications.details&pid=5891&dtid=32)

<sup>xxvi</sup> "The Rise and Fall of Intercountry Adoption in the 21st Century: Global Trends from 2001 to 2010," Peter Selman in *Intercountry Adoption: Policies, Practices, and Outcomes*, Judith L. Gibbons and Karen Smith Rotabi, eds. (2012).

<sup>xxvii</sup> <http://www.hcch.net/upload/brochure33en.pdf>.

<sup>xxviii</sup> Hague Conference on Private International Law's "The Implementation and Operation of The 1993 Hague Intercountry Adoption Convention: Guide to Good Practice," paragraph 136.

<sup>xxix</sup> Article 8. Articles 7-9 cover Central Authority responsibilities.

<sup>xxx</sup> The response from Spain was translated from Spanish to English by an Institute graduate student intern fluent in Spanish.

<sup>xxxi</sup> The Hague Conference on Private International Law's "The Implementation and Operation of The 1993 Hague Intercountry Adoption Convention: Guide to Good Practice," Section 2.1, [http://www.hcch.net/upload/adoguide\\_e.pdf](http://www.hcch.net/upload/adoguide_e.pdf)

<sup>xxxii</sup> Hague Conference website, Country Profiles, [http://www.hcch.net/index\\_en.php?act=conventions.publications&dtid=42&cid=69](http://www.hcch.net/index_en.php?act=conventions.publications&dtid=42&cid=69), for COOs the question 2.1c, for RCs, 2a.

<sup>xxxiii</sup> See also Hague Conference website, Country Profiles, [http://www.hcch.net/index\\_en.php?act=conventions.publications&dtid=42&cid=69](http://www.hcch.net/index_en.php?act=conventions.publications&dtid=42&cid=69), for COOs the question 2.1c, for RCs, 2a.

<sup>xxxiv</sup> The Hague Conference on Private International Law's "The Implementation and Operation of The 1993 Hague Intercountry Adoption Convention: Guide to Good Practice," Section 7.3.1, [http://www.hcch.net/upload/adoguide\\_e.pdf](http://www.hcch.net/upload/adoguide_e.pdf)

<sup>xxxv</sup> Hague Conference website, Country Profiles, [http://www.hcch.net/index\\_en.php?act=conventions.publications&dtid=42&cid=69](http://www.hcch.net/index_en.php?act=conventions.publications&dtid=42&cid=69), for RCs, the question is 2b, for COOs, 2.4a.

<sup>xxxvi</sup> <http://www.vaikoteises.lt/media/file/abroad09-12-2013.pdf>;  
<http://www.vaikoteises.lt/media/file/Children%20adopted%20by%20Lithuanian%20familiesiki2012a.pdf>

<sup>xxxvii</sup> <http://www.kindengezin.be/img/binnenlandse-adoptie.pdf>

<sup>xxxviii</sup> <http://www.kindengezin.be/adoptie/in-cijfers/buitenlandse-adoptie/>

<sup>xxxix</sup> <http://www.cic.gc.ca/english/immigrate/adoption/index.asp>

<sup>xl</sup> <http://www.ssb.no/en/befolkning/statistikker/adopsjon/aar/2013-06-06>

<sup>xli</sup> Hague Conference on Private International Law, [http://www.hcch.net/index\\_en.php?act=progress.listing&cat=8](http://www.hcch.net/index_en.php?act=progress.listing&cat=8)

<sup>xlii</sup> Expert Group meeting in October 2012, <http://www.hcch.net/upload/wop/2012concl33.pdf>.

The Hague Conference also issued a list of defined terms and a discussion paper.

[http://www.hcch.net/index\\_en.php?act=progress.listing&cat=8](http://www.hcch.net/index_en.php?act=progress.listing&cat=8)

<sup>xliii</sup> "Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases."

<http://www.hcch.net/upload/2012discpaper33en.pdf>

<sup>xliv</sup> Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice No 2

(2013) [http://www.hcch.net/index\\_en.php?act=publications.details&pid=5504&dtid=3](http://www.hcch.net/index_en.php?act=publications.details&pid=5504&dtid=3).

## APPENDIX B: ADDITIONAL FINDINGS

### Care in Country of Origin

International adoption professionals in COOs were asked about practices and policies that support birth families. When asked who makes the final decision on whether a child remains with their family of origin, 50 percent said that the birth parent is responsible for the decision. When we separated the HCIA-signatory COOs from non-HCIA-signatory COOs, a slightly different pattern emerged. In HCIA-signatory COOs, 48 percent of professionals indicated it was the State that made the final decision. In non-HCIA-signatory countries, 70 percent of COO professionals indicated it is the birth parent who makes the final decision.

**Table 1: Who Makes the Final Decision for Children in Families**

	COO Aggregated (%, n)	HCIA-signatory COO (%, n)	Non-HCIA-signatory COO (%, n)
Birth parent	50%, 22	35%, 8	<b>70%, 14</b>
State agent	32%, 14	<b>48%, 11</b>	10%, 2
Judge/judicial official	16%, 7	13%, 3	20%, 4
NGO	2%, 1	4%, 1	0%
Religious organization/authority	0%, 0	0%	0%

Almost three quarters (74%) of COO professionals reported that there is no time limit in their respective country on working to keep families together (Table 5.2). When grouped by HCIA-signatory status, these figures reflect that the lack of time limits was most commonly reported by professionals in non-HCIA-signatory COOs (89%), suggesting that some HCIA-signatory countries may have established time limits in order to reduce the amount of time children spend waiting without families or in between families. When asked to report what the time limit was, professional responses (n=10) ranged from 7 days to 2 years. Of those who reported a time limit, eight said that it was always or frequently enforced, while one reported the time limit laws were never enforced.

**Table 2: COO Time Limits for Working to Keep Families Together**

	COO Aggregated (% , n)	HCIA-signatory COO (% , n)	Non-HCIA-signatory COO (% , n)
Yes	26%, 11	39%, 9	11%, 2
No	74%, 31	61%, 14	89%, 18

COO professionals also reported on the steps taken to keep birth families together, before the decision for adoptive placement is made. Professionals were asked to report on seven steps that might be undertaken. These steps can be found with statistics in table 5.3 below. Professionals were asked to check all steps that are attempted to their knowledge in their country. Of those responding, 78 percent said that the State will temporarily institutionalize the child. The least-selected response (20%) by COO professionals was *“State helps parents to become able to raise their child.”*

**Table 3: Steps Taken in COOs to Keep Birth Families Together**

Response	%	n
State temporarily institutionalizes the child	78%	31
State searches for parents	70%	28
State looks for relatives to provide care	68%	27
State looks for others within the country to provide care	60%	24
State decides that parents cannot raise the child (specific criteria: abuse, neglect, parent is mentally ill or on drugs)	53%	21
State looks for others from child’s cultural group to provide care	38%	15
State helps parents to become able to raise their child: financial supports and other services	20%	8

According to professionals in COOs, the only service more likely to be offered than not offered to keep the child with the family is institutional care (60%). Non-HCIA-signatory professionals were likely to indicate (73%) that institutional care was the only service offered to birth families. In HCIA-signatory COOs, however, professionals indicated that their governments were likely to offer foster care (60%) as well as institutional care. Foster care is a better living arrangement than institutional care for unparented children, and is congruent with HCIA general principles and children’s rights. Policymaker interviews indicate enhancements to child



welfare systems and other steps that reflect greater attention to children’s best interests (See companion report, Deoudes, 2013).

**Table 4: Resources Provided to Families in COOs for Preservation**

	<b>Yes, Provided % (n)</b>	<b>No, Not Provided % (n)</b>
Orphanage/ Institution	60% (17)	40% (11)
Foster Care	44% (11)	56% (14)
Group Home	29% (7)	71% (17)
Medical Care	27% (7)	73% (19)
Food	27% (7)	73% (19)
Parental Training	25% (6)	75% (18)
Financial Support	15% (4)	85% (22)

In some countries, parents are ordered by courts to attend training in order to be able to care for their children successfully; however, 54 percent of COO professionals reported that there is no such thing as court-ordered parent training, and 33 percent said they are unsure if such training exists. Additionally, 50 percent of COO professionals reported that they do not use court systems to determine the custody of children.

The majority of COO professionals (72%) were unclear about how many families are ultimately reunited with their children after temporary or respite care. The remaining 28 percent estimated this number to be in the range of 0-19 percent of children who are ultimately reunited with their families.

Please refer to table 5.6 for more complete statistics by subgroup. Non-HCIA COO professionals indicated that children were most likely to be living in privately run and funded orphanages or institutions, while those who were in HCIA-signatory COOs indicated that children were most likely living in government-run and -funded orphanages/institutions. The use of foster care in two HCIA-signatory COOs is congruent with the general principle of the HCIA on children’s rights, but an uncommon response for survey respondents.

**Table 5: Where a Child Lives in Care**

	<b>COOs Aggregated (%, n)</b>	<b>Non-HCIA- signatory COOs (%, n)</b>	<b>HCIA- signatory COOs (%, n)</b>
Government run and funded orphanages	<b>45%, 14</b>	14%, 2	<b>75%, 12</b>
Privately run and funded orphanages	35%, 11	<b>64%, 9</b>	13%, 2
Government funded and privately run orphanages	10%, 3	14%, 2	0
Foster care	6%, 2	0	13%, 2
Other	3%, 1	7%, 1	0
Group homes	0	0	0

### **Pre-placement Medical Care; Caregiving**

**Parents' concerns.** Seventy-one percent were concerned about poor living conditions, 54 percent about child neglect or abuse and 72 percent about attachment difficulties. When asked to indicate when they were most concerned about their child's pre-placement care, the table shows timing information.

**Table 6: When Concerns about Pre-Placement Care Emerge**

	Before	During	After
Poor living conditions	80% (n=570)	56% (n=402)	28% (n=197)
Child neglect or abuse	75% (n=417)	45% (n=253)	30% (n= 170)
Attachment difficulties	72% (n=537)	54% (n=408)	39% (n=292)

These results indicate that parents have much higher concerns about their child's pre-placement care before they've begun their adoptions.

Parents indicated 65 percent were concerned about health or medical problems; 56 percent about later academic or scholastic problems; 68 percent about attachment problems; 53 percent about stunted physical growth or developmental delays; and 65 percent about emotional and behavioral problems. As you can see from the table, certain concerns were heightened for parents after the adoption, while others were more concerning before the adoption.

**Table 7: When Concerns about Post-Placement Difficulties Emerge**

	Before	During	After
Health and medical problems	63% (N=403)	59% (n=376)	44% (n=284)
Academic or scholastic problems	50% (n=274)	38% (n=208)	63% (n=349)
Attachment difficulties	61% (n=426)	53% (n=371)	49% (n=342)
Stunted physical growth or developmental delays	59% (n=315)	55% (n=293)	47% (n=250)
Emotional or behavioral problems	55% (n=362)	44% (n=286)	56% (n=368)

Areas of pre-placement care that were insufficient or inadequate: 78 percent of parents said they felt their children had unsatisfactory feeding and nutrition; 69 percent said their children had insufficient adult caring and nurturing; 62 percent said their children had inadequate medical care; 38 percent said their child had insufficient education and 34 percent said their child had insufficient interaction with other children.

***Discrepancies between child's health and medical records.*** We asked adoptive parents if there were any discrepancies between their child's health and what was indicated about the child's health by their medical records. 61 percent of adoptive parents indicated that their child's medical records were accurate. Of the 39 percent of parents who experienced discrepancies between their child's health and medical records, parents indicated that their child had a problem that was not in the medical records (13%); that the records were incomplete or missing information (11%); that the records said there was an issue the child did not actually have (6%). 5 percent of families indicated they never got medical records; and 4 percent said their child's medical problem was more severe than indicated by the medical records.

If the records and health were inconsistent, a follow-up question was asked of adoptive parents. Parents indicated that they believed medical records were discrepant because: the quality of medical care and assessment in the COO was too poor (52%); that professionals were either intentionally or accidentally inaccurate (31%); or that their child's issue could not have been diagnosed earlier (17%).

### **Finding Families for Children through Intercountry Adoption**

***Matching factors.*** We asked professionals about certain criteria used to match families with children that could be seen as unethical. Seventeen professionals reported on the possibly unethical factors that are considered when matching a child to a family. Of these, 24 percent considered the amount of time the PAPs have spent in the COO. A special recommendation by a third party was considered by 24 percent, and one professional indicated that how much parents have donated is considered. Of the 17 professionals responding, 65 percent cited other considerations, including families' understanding of the child's culture and readiness to support

child, government workers making the match based on the home study, and domestic families being preferred.

**Family characteristics.** As can be seen in Table 5.11, COOs have more restrictive criteria for PAP eligibility than do RCs. This difference is most notable regarding same-sex couples. Four of five COOs in this survey will deny same-sex couples eligibility for ICA, but only one of five RCs will do the same.

Data on the exclusion criteria used by professionals beyond those required by their government are presented in Appendix B. More RC professionals apply additional criteria than do those in COOs. Thus, although RCs tend to be more flexible in their criteria on PAP eligibility, they are more likely to make the criteria more rigorous.

**Table 8: Additional PAP Exclusion Criteria Set by Professionals**

	COO (n=24)	COO %	RC (n=47)	RC %
PAP age	3	13%	16	34%
Single	1	4%	8	17%
Same-sex couple	2	8%	7	15%
# of Divorces	6	25%	10	21%
Disability	3	13%	5	11%
Income, education	4	17%	12	26%
Family Size	2	8%	12	26%

### Pre-adoption Process for Parents

Parents were asked a number of questions about their decision to adopt, reasons for adopting from another country, as well as their views about and previous attempts at domestic adoption.

*Why adopt?* Just over 40 percent of parents (42%) adopted because they were unable to bear children. Adoption was the first choice for 36 percent of parents, and another 22 percent wanted more children. In the open-ended responses, parents were given the option to provide additional explanation.

*Influences on decision for ICA.* Parents were given several options to answer the question about factors influencing their decision for an ICA; they were asked to check all that apply<sup>xliv</sup>. In addition, they were able to list other reasons. As can be seen in the table below, about 45 percent of parents were drawn to ICA either because children in those countries needed a home or parents wanted a child of a certain race. Other parents sought to avoid domestic adoption, either because of concerns about contact with birth families, about how long the process would take, or about raising a child from foster care. Some chose ICA because no infants were available in their country or they were not approved for domestic adoption. The

largest number of parents (47%) shared their reasons for choosing an ICA. *Sample reasons included:*

**Table 9: Factors influencing choice of ICA**

	N	% of total
Children in other countries need a home	355	35%
No contact with birth families	305	30%
Domestic adoption takes too long	281	27%
Worried about raising children from foster care	275	27%
Expenses were more reasonable than domestic adoption	112	11%
Wanted to raise a child from a certain racial background	100	10%
No infants available in our country	98	10%
Were not approved to adopt domestically	30	3%
Other	487	47%

Parents were asked if they had experienced a previous failed attempt at ICA. Most had not (89%), while the remainder had. Parents shared the reasons for the failed attempt. Some reasons included parental decision to withdraw due to questionable ethics in COO, biological family members decided to raise the child, a domestic adoptive family was identified for the child, death of infant, country closed its ICA program (although they paid some fees), the process did not lead to an adoptive placement, family was not approved due to health or age.

***Domestic adoption: views and experiences.*** Asked if they considered domestic adoption before choosing ICA, 32 percent said “yes.” Fifty-six percent said ICA was their first choice; 12 percent tried to adopt domestically and a third of them succeeded. When asked about a previous attempt at domestic adoption, 256 parents responded. Of these, 61 percent sought a private infant placement and 49 percent sought to adopt a child from foster care.

### **Parents’ Experiences with Practices Covered by HAC**

Although the HAC was designed partly to safeguard parents’ interests, AP survey responses showed 73 percent did not factor in a country’s Hague status when considering it for adoption. Reasons for adopting from a non-Hague member varied widely (n=588); the most commonly endorsed reasons included wanting to adopt children most in need (25%, n=146), having a

personal link to the country (30%, n=177), being eligible for the respective country (20%, n=118), a shorter wait (30%, n=177), and more reasonable expenses (13%, n=76). However, the most frequent response was to offer individual reasons, which included a bilateral agreement was in place between the two countries involved; reputable agency in COO; COO has good caregiving system for waiting children; adopted before the Hague was promulgated; and “as an ex-pat American, I cannot adopt from a Hague country.”

**Education and post-placement services.** The HCIA requires that RC agencies provide 10 hours of education for PAPs and that post-placement services be offered. Of responding parents, only 54% (n=464) reported being informed about the latter requirement. A higher percentage (72%, n=689) reported receiving the training. Over 80 percent found the training useful or very useful, whereas 16 percent said it was useless or very useless. Almost three-quarters (73%) were told about post-placement services.

**Record review.** The Convention also requires RC agencies to provide parents with children’s records, including medical records, and to allow time for review and decision-making about whether to adopt. The specific amount of time parents receive can be set by each RC, but must be consistent within that country. In the U.S., agencies must give parents two weeks to consider the child’s records before making an adoption decision. Of the 837 responding parents, only 56 percent reported being given that amount of time to accept the match. Substantially more parents (80%) reported having access to their children’s medical records before committing to the placement, but only 67 percent were given two weeks to review those records. Regarding the completeness of the medical records, 67 percent were satisfied with how complete they were.

**Contract.** The Convention directs RC agencies to provide parents with a contract that clearly states the services offered and fees charged. Three-quarters of responding parents (76%) reported getting a contract, but 13 percent did not and 11 percent did not know/recall. Information covered in the contract included: agency policies (97%), agency fees (98%), agency history (49%), agency relationship with supervised adoption providers (43%). Parents said the contracts were missing other information, including: assurance that fees would not increase, statement about how agency deals with changes in staffing, clear refund policy and transparency in allocation of funds, and protection against falsified information.

**Adoption agency and adoption lawyers.** Parents (90%) overwhelmingly worked with agencies, almost all of which (99%) were licensed. In general, parents were fairly satisfied with their adoption provider: 83 percent would recommend it to another family. Dissatisfied parents (n=138) were asked to identify any of five possible reasons: 90 percent were uncertain that the agency told them all they needed to know; 51 percent noted the agency’s disorganization; 48% (n=66) questioned the agency’s ethics; 26 percent felt the process took too long; and 18 percent reported excessive fees. Many parents also offered individual concerns, which included non-cooperation by agency, agency’s license was revoked, no post-placement services offered and denial that children suffer from early trauma; and different values and beliefs

Considerably fewer parents (32%) worked with adoption lawyers or other professionals. Satisfaction levels were comparable, as 83 percent also would recommend their lawyer or professional to another family. Dissatisfied parents endorsed the same problems as above, although with slightly different percentages: 73 percent were not told all they needed to know; 65 percent questioned ethics; 50 percent felt the process took too long; 48 percent noted the professional's disorganization; and 33 percent felt the fees were excessive. Individual concerns included lack of follow-through; lies and broken promises; and a lack of local support.

***Travel to COO.*** Parents were asked how many trips were required to complete their ICA. Of those responding (n=1041), 66 percent reported one trip, and 21 percent said two. Four percent reported that three or more trips were necessary and 10 percent did not have to travel at all.

***Expectations and placement realities.*** Parents were asked if there were differences between what they were told to expect and what transpired during their adoptions. Of those responding, 70 percent reported the adoption went as expected, whereas 25 percent thought the process would be simpler than it was. The remaining 5 percent found the process easier than expected. Parents who thought the process would be simpler shared a range of issues: insufficient preparation for processes and wait time in the COO, lack of transparency, excessive delays, unanticipated expenses, changing requirements, disconnect between U.S. State Department and U. S. embassies in COOs, problems with adoption facilitator; and unanticipated and excessive paperwork.

***Resources available while in COO for adoptive placement.*** Parents were asked several questions about the types of supports they received while in the COOs, as well as those they needed. Asked if they were provided a representative of the adoption agency in the COO, 91 percent said yes. The representatives ranged from an interpreter or a travel guide/driver (each 67%), a representative of the RC agency (50%), and a representative of the COO's institution (44%). Some parents (16%) noted other supports, most commonly a local lawyer and doctor. Parents who indicated that no supports were provided (n=90) were asked what they had needed; most commonly endorsed were: travel guide/driver (60%); an interpreter (48%, n=32); representative of the COO's agency/institution (38%); and a representative from the RC's adoption agency (21%). Additional needs were identified by 25 percent of parents and included: lawyer, no needs (in some cases, agency provided for everything), and family.

## **Fraud Reduction**

### **Children's Legal Availability**

COO and RC professionals indicated that legal availability is most likely documented through a legal or government document, and next through a written but not legal document, and finally verbal information from an interview. RC professionals display similar opinions. Statistics comparing COOs and RCs can be found in Appendix B.

**Table 10: Documentation of Legal Availability**

	COOs (% , n)	RCs (% , n)
Legal or Government Document	88%, 28	89%, 76
Written but not Legal Document	59%, 19	54%, 46
Verbal Interview/ Information	50%, 16	45%, 38

**Verification of legal availability.** In Chapter 5, we reported that HCIA-signatory professionals were less likely than non-signatory and RC professionals to verify documentation on legal availability. In the follow-up question about who verifies this information, 94 percent of COO professionals said it was a government official; 69 percent said a representative of the child’s finders/agency or orphanage; 63 percent said a judge, and 56 percent said an agency staffer verifies the information.

The same follow-up question about who verifies the information was asked: RC professionals indicated that verification was done by professionals in the COO (94%, n=50 RC professionals said this was the case); 62 percent (n=33) of RC professionals indicated that their own representatives also verify legal availability information. When asked who is responsible for verification of the information provided by COO professionals, 39 percent (n=13) of RC professionals indicated that staff or contractors in their employ in the COO are responsible for verification and documentation; 27 percent (n=9) said a state or federal official verifies the COO information.

We also asked RC professionals if they take any additional steps when children are coming from non-HCIA-signatory countries; 75 percent indicated that they do take special steps to ensure that such children are legally available. Answers to a follow-up question, on what steps are taken, included: allowing the COO to provide information, 76 percent; having other professionals in the COO provide information, 48 percent; and a possible birth family or community assessment, 33 percent.

**Professionals on abuses.** One of our goals in the professional survey was to gain a better understanding of adoption abuses “on the ground.” We asked these questions primarily of RC professionals because we were concerned about the potential of incrimination for COO professionals. The specific data are presented in Appendix B. In sum, few RC professionals report activities that might be perceived as abuses – for example, paying birth mothers to encourage relinquishment.

We know money sometimes is offered to private individuals who assist in international adoption, and that such individuals can be complicit in abuses. Of RC professionals responding, 63 percent reported that money is not offered to private individuals; 26 percent said that when this happens, it is for legitimate needs and expenses.



Since cases of adoption abuses have been widely publicized in the media, we wanted to know if adoption professionals had first-hand knowledge, for instance, about the occurrence of coercion of birth families. We asked these questions primarily of RC professionals, because we had concerns that COO adoption professionals may be at higher personal risk answering questions about specific abuses. Additionally, we know that in some countries, or in some areas, money is offered to cover prenatal or pre-placement costs, or to otherwise assist the birth family, and these practices are not necessarily viewed as unethical. Of RC professionals responding, 55 percent believed there was no money offered to birth parents, and 49 percent said they were aware of money offered to cover prenatal or pre-placement care costs. One professional said money was offered to encourage parents to relinquish their children, adding that this was a past, recent and current practice.

**Parents on abuses.** We asked a number of questions of adoptive parents designed to understand international adoption abuses, and their understanding of these abuses. We asked if there were any agencies or countries the parents avoided for fear of abuses; 35 percent said “yes,” while 53 percent said everything seemed okay.

Asked if they suspected any adoption abuses, 74 percent of parents said “no.” Of those who did suspect abuses, the most frequently cited was paying a middleman (15%), followed by “other” (9%) and birth parent being pressured (6%).

For those with suspicions, we asked when they first emerged. Eighty-five percent said during the process; the remainder said before the process began.

We then asked adoptive parents if there were issues they were concerned about; 55 percent said they were concerned about the truthfulness of the child’s health/personal history description; 34 percent said they had no concerns; 16 percent said “other.”

For those who indicated they had concerns, we asked when they began. Of parents reporting, 48 percent said their concerns arose during the process, 36 percent said before starting the process; and 16 percent said after their adoptions.

We also wanted to determine if there were financial abuses. Asked about donating money, 49 percent said they didn’t have to do so and 45 percent said they were encouraged or required to do so to an agency or institution. For those who indicated they did donate money, we asked how much they gave. Parents’ answers ranged from \$100 to \$8,000 in contributions of items or cash, either in single or annual donations.

We asked parents if they were ever told they could improve their position on the waitlist by making a donation; 99 percent said “no.” Asked if they were told to give money to persons or institutions, 40 percent said “yes.” It appears that while monetary donations to orphanages and institutions are still common and perhaps expected practice, parents in our sample did not experience financial abuses of the matching and waitlist process.

Finally, we explored parents' opinions on their children's legal availability for adoption. First we asked how certain they were about that availability before the process. The majority (87%) said they were completely certain of it, 11% (n=117) said somewhat certain, 1 percent said somewhat uncertain, and 1 percent said uncertain.

We then asked how certain they were after the adoption that their children had been legally available. Of those responding, 81 percent said completely certain; 13 percent said somewhat certain; 4 percent said somewhat uncertain; and 2 percent said uncertain. For those parents who said they were somewhat uncertain or uncertain, we asked what information led them to feel that way. Forty percent said specific information from a reliable source; 29 percent said news story about their agency/child's country; 29 percent said greater awareness of uncertainties; and 2 percent cited no specific source.

### **Professionals on Relinquishment Laws**

We have found that there are different laws, policies and cultural values in various COOs concerning the legal relinquishment and the illegal abandonment of children. In order to provide some general context on this subject, we asked COO professionals to report whether parental rights can be legally relinquished; 83 percent of these professionals said "yes," and the rest indicated that it is not legal for parents to do so.

Our next question concerned whether parents were allowed to anonymously give up their children, or whether they had to be legally identified. 75 percent of COO professionals said parents must provide their names, while 9 percent reported that parents could relinquish anonymously. Sixteen percent replied "other," with responses that included, "*vast majority of cases are that they must be identified. Small number of cases are [sic] allowed in some areas to abandon the child with a 'safe person or agency';*" and, "*if parents' names are not available, Orphan status must be verified.*"

### **Cooperation Between States**

**Central Authority.** We also asked professionals whether their country has a Central Authority. Across COOs and RCs, 80 percent replied affirmatively. Some countries also have Adoption Authorities at state or provincial levels (17% of RCs, and 10% of COOs). Six percent of RCs and 10 percent of COOs said their countries had no Central Authority. When further delineated by HCIA-signatory status, 100 percent of signatory COO professionals indicated they have a Central Authority at the country level. Among non-signatory COOs, 57 percent said there was a Central Authority at the country level and 13 percent said they existed at the state level.

### **Adoption Practice Realities**

**Money.** RC professionals were asked about their knowledge of payments to biological families or independent professionals in COOs, and reasons for such payments. Of those responding (n=47), the prevailing responses were to provide support to biological parents or families; 49 percent said that others with whom they worked had paid for costs of prenatal care; 23 percent said others gave biological parents money to help with their financial situations; and 21 percent

said it was to encourage the pregnant mother to maintain good health care. Only three individuals reported that they knew others had given money to parents a) to give them the safest route to finding a family for their child, or b) to encourage the family to make an adoption plan. Over half the RC professionals offered additional information, including that no one had made payments to biological parents; payment for expenses had occurred only in domestic adoptions within RCs, and services are provided but not money. Regarding payments to individual professionals in the COO, RC professionals (n=35) noted a variety of reasons why payment might be made, led by 26 percent who said limited staffing resources in some COOs required the hiring of private contractors. Other stated reasons included to ensure that adoptable children are connected with the placing agency; to provide parents with the safest route to ensuring their child finds a new family; and the agency recognizes there are certain trustworthy community figures who facilitate the process.

RC professionals said they believe adoptive family pays for all emergency services.

**Parents and money.** When asked if the adoption process cost what they expected, 78 percent said that it did; 4 percent said it cost less and 18 percent said it cost more.

We asked parents if they were ever told they could improve their position on a waitlist by making a donation; 99 percent said “no.” Asked if they were told to give money to persons or institutions in their child’s COO, 40 percent (n=404) said “yes,” and the rest (n=559) said no. We also if their adoptions involved mandatory donations; 49% (n=523) said they did not, while 45% (n=477) said they were encouraged or required to do so to an agency or institution. Of those parents who did make contributions, we asked how much – and they indicated a range of \$100 to \$8,000 for various items, services, etc. in both single sums and, sometimes, annual donations.

Asked if they received coverage for medical services, 85 percent of parents said yes, they had privately funded insurance; 7 percent said they paid for themselves; 4 percent said their medical care was covered under a universal coverage policy by their government, and 3 percent said they got publicly funded health insurance.

Asked if they had financial coverage for mental health services, 77 percent said yes, privately funded health insurance; 17 percent said no, they paid for themselves; 3 percent said universal coverage; and 3 percent said publicly funded

We then asked who pays for post-placement services; 12 percent (n=102) of parents said their adoption agency; 83 percent (n=722) said their family; and 29 percent (n=248) said insurance pays for such services.

**Time.** Because of concerns raised about the increased time it takes to complete an adoption in recent years, we sought to understand whether professionals had experienced any significant changes in this regard. Asked whether there has been a noticeable change in the time it takes to finalize an international adoption in the last five years, 76 percent of professionals said it takes longer; 20 percent said there has been no change; and 3 percent said it takes less time. We then asked a follow up question, “Why have these changes occurred?” Responses varied,

but many were reflected in this statement: *“More government involvement never makes less red tape.”*

We also asked parents about their firsthand experiences with the time involved in an international adoption. Our first question related to having guardianship of their child before the finalization of adoption; 67 percent reported that they had guardianship for less than a month, 17 percent (n=159) said they had guardianship for one to five months; 14 percent (n=126) said they had guardianship for six months to a year; 2 percent (n=21) said they had guardianship for more than a year and 1 percent (n=6) said they had guardianship for more than two years.

We were also interested in the average time it took to finalize an adoption “from start to finish,” allowing the parents to interpret how long they spent on the process. Forty percent said the process lasted between one and two years; 36 percent (n=353) said it took less than a year; 14 percent (n=136) said between two and three years; 5 percent (n= 45) said three to four years; 5 percent (n=53) said more than four years; with one parent indicated the process took 12 years to complete.

Asked how long the adoption took from the time they submitted an application (or similar request) to the time it was finalized, 41 percent (n=397) of parents answered less than one year; 40 percent (n=392) said between one and two years; 11 percent (n=104) said two to three years; 5 percent (n=45) said three to four years; and 4 percent (n=41) said it took more than four years.

### **Numbers of ICA Placements**

We asked adoption professionals to indicate whether they noticed a change in the number of children adopted in the last five years. Across all respondents, 70 percent said there has been a decrease in adoptions into countries and 30 percent said there has been a decrease out of countries. Eighty-eight percent of COO professionals said there has been a decrease of adoptions out of their countries.

In a follow-up question, we asked why professionals believed these changes have occurred. They cited a range of reasons including increased domestic adoption, the ratification of the HCAI, greater bureaucracy, higher expenses, additional paperwork, and more time spent verifying the legal availability of children.

### **Post-Placement Experiences**

***Required reporting.*** In adoption, many families are required to have post-placement support and monitoring from their adoption agencies, while other adoptive families receive little to no support post-adoption from their agencies. This monitoring and supervision may also be part of agreements between international adoption agencies and between state governments participating in ICA programs, particularly amongst Hague-signatory countries.

COO professionals: 96 percent in this group indicated that they require regular reports on adopted children from RC agencies. Asked to give the required frequency of these reports, professionals indicated a broad range – from one report at six months to annual reports until

the child is 18. Ninety-three percent said they send post-placement reports about the adoptive families to the country of origin.

RC professionals: When asked about what kind of policies their agencies have in place regarding post-placement, 95 percent of RC professionals indicated that their agencies have rules or policies about post-placement assessment and report frequency; 71 percent said they have rules concerning which professionals are qualified to provide post-placement services; 65 percent reported rules on the types of post-placement services that must be provided; and 65 percent said their agencies have rules on how often professionals must have contact with the adoptive family.

***Services to families.*** Seventy-three percent of RC professionals reported that they have policies about support services for families after adoption.

With regard to who participates in post-placement home visits: 97 percent of RC professionals said both parents must participate; 95 percent said the adoptee must participate; 85 percent said that siblings must participate; 9 percent said that if there are parents in the family, only one must be present for the home visit.

Professionals' views on families requiring services: 25 percent of RC professionals indicated that they believe somewhere in the range of 21-30 percent of families need services in addition to those already provided by the agency; an additional 25 percent of RC professionals estimated that only 0-10 percent of families need additional services; another 10 percent said 11-20 percent of families require additional services.

When asked whether adoptive families are ultimately able to access the additional services they need, 49 percent of RC professionals believed that 91-100 percent of families are getting access to the services they need; 10 percent thought that probably 81-90 percent of families have access to required services.

When asked about out-of-home respite services for adoptive families, 76 percent of RC professionals believed these are available, and 60 percent said other emergency services also are available. The professionals believed that it is the adoptive family who bears the brunt of the costs associated with emergency or respite services.

We explored parents' perceptions about their post-placement experiences with services.

Asked what services they were told were available and explained to them, 90 percent (n=583) of parents said they were told supervision and monitoring was available; 63 percent were told they had access to counseling services; and 56 percent were told that education and training was available. Nine percent of parents selected the option "Other," and said this included reports required on the placement; groups, support and socialization; early intervention; *"I don't remember"* and *"I don't feel like there were any post placement services/support."*

We then asked parents which services were provided to them whether or not they needed them: 87 percent said supervision and monitoring; 28 percent said education and training; 26 percent said counseling; and 13 percent said “other.” The latter category included a range of responses from: “none,” to “support groups,” to “prayer” and “early intervention services.”

Asked if they needed services in addition to those provided by their agencies, 61 percent of parents said “no” and 39 percent said “yes.” We then asked those in the latter category whether post-placement services were provided as part of the adoption process through their agencies. Fifty-six percent said they had to find services themselves; 18 percent said all services were provided through their agencies; 14 percent said some services were provided by their agencies (but not all they needed) and 13 percent said their agencies referred them to outside providers..

For those parents who said that they had to seek out their own services, or that they were referred to outside providers, we asked whether they were able to access the services they needed: 79 percent said “yes” and 21 percent said “no.”

For parents who said that they were provided only some necessary services through their agencies, we then asked if they were able to access all the additional services they needed: 82 percent said “yes” and 18 percent said “no.”

A follow up question was asked of those who indicated they were not able to access the additional services they needed. In response, 56 percent said they did not know how to find the additional services their families required; 49 percent said that services were not available in their area; 48 percent said they did not have financial coverage or couldn’t afford the services they needed; and 18 percent said “other.” Responses to the “other” option included: “Even when we accessed some services, the providers did not have the proper training or supervision and many caused additional harm to our child,” and “I didn’t recognize what services were out there or what I needed” and this one:

*Most of the adoption professionals in our area are not trained to recognize infant attachment challenges and trauma. We went to our first of many adoption counselors/therapists within three weeks of coming home and although our daughter was showing signs of RAD, the therapist totally missed those signs. It took us three years to finally help and we found it in a neighboring state, so we had to travel 800 miles bi-weekly to get our daughter (and family) the help she needed.*

Finally, we asked parents to reflect on all the services they needed and those they received. Sixty-one percent said all of their needs were met by the services they received; 24 percent said their needs were partially met; 8 percent said “no; 6 percent said they were still receiving services; and 1 percent said they were waiting for services.

In terms of paying for post-placement services, 12 percent of adoptive parents said that their agency paid for services; 83 percent said the family had to cover these costs; and 29 percent said insurance covered some of the costs of services.

### **Failed and Disrupted Adoptions**

We were also interested in disruptions and failures of international adoptions. The United States does not keep records of these, but we recognize that they occur.

Ninety-one percent of the RC professionals said their agencies have policies and procedures in place about the custody of a child in a failed adoption; 88 percent said their agencies have rules about what the adoptive family must do when this happens.

Sixty-four percent of RC professionals said that if the adoptive parents are no longer able to parent the international adoptee, they are counseled or otherwise evaluated and offered services; 31 percent said their government will make other arrangements for the child; and 24 percent said there is a place for people to relinquish adopted children.

Almost three-quarters (70%) of RC professionals were aware of the HCAI's policies on disruption/failure. Seventy-six percent of them said they have never heard of this happening, while the rest said they knowledge – obtained personally or through the media – about disrupted and failed international adoptions.

### **Citizenship and Guardianship**

Citizenship has been an important topic in international adoption. In response to a question on the subject, 71 percent of RC professionals indicated that adoptees automatically get citizenship when they enter their country; 21 percent said that the adoptive parents must apply for the child's citizenship after adoption.

When asked about guardianship of their adopted children, 67 percent of adoptive parents said they had guardianship of their child for less than a month; 17 percent said they had guardianship for one to five months; 2 percent said over a year; and 1 percent said they had guardianship for over two years.

### **Culture/Race/Ethnicity**

ICA overwhelmingly involves transracial placements (Vandivere et al., 2009). In addition, the HCAI provides guidelines about transracial adoptions, particularly on the part of RCs and pre-adoptive parents. We developed a series of questions regarding transracial adoption and cultural attitudes about race and ethnic differences. Professionals in RCs and parents responded to distinct questions on these issues.

**Racial attitudes in RCs.** Professionals overwhelmingly (80%) noted that it is not hard for children with certain cultural, ethnic or racial characteristics to be adopted into their RC. However, many said transracial adoptions face challenges. Professionals (n=65) responded to a

question about racial attitudes in their countries: 75 percent indicated that “there are attitudes that would have a negative impact on transracially adopted children (and their families).” When asked more specifically about prejudice or race-related tensions experienced by minority groups in RCs, 85 percent of the responding professionals replied “sometimes” or “often,” whereas 14 percent said “rarely” or “never.” Just over three-quarters (77%) indicated that transracial adoptive families “sometimes” or “often” faced prejudice or discrimination. The remainder chose “rarely.”

***Pre-adoptive preparation.*** In light of these issues and the importance of helping parents prepare to raise their children with exposure to their cultural background, we asked professionals in RCs about training relating to culture, race and ethnicity. Almost all respondents (95%) indicated that training was available. Asked if the training is generic or customized for the country from which parents adopt, professionals were split: 33 percent said the training was general; 32 percent said it was customized; and 35 percent said it was customized for some countries and otherwise general.

***Parents and transracial adoption.*** Consistent with overall rates of transracial adoption in ICA, 78 percent of parents said they adopted a child of a different race. Asked if transracial adoption was their first choice, 83 percent said it was. When asked what led them to adopt a child of a different race, 69 percent chose “we didn’t care about the child’s race;” 20 percent said “we wanted a child from a specific country/race/culture in our family;” 14 percent said “we wanted a sibling who looks like our other child(ren);” and 9 percent replied “we thought adopting a child from another race would be a good thing to do.” Nineteen percent cited other reasons, including country’s lack of corruption; only country that would accept me; we are an interracial couple; longstanding connection to COO’s culture; have several friends with children from that COO.

Parents were asked about ways to promote their connections to countries of origin, including overall importance and travel. When asked how important it is for parents to maintain connections to their children’s COOs, 82 percent said “very” or “extremely” important. Just 2 percent did not feel a connection was important, and 16 percent it was “neither important nor unimportant.” Asked what they do to support their connections, open-ended responses varied widely. Parents connect with friends and/or travel groups in RCs, travel back to the COO, maintain contact with birth family, get involved in charity work for the country, take language lessons, become involved in search for birth parents, follow news from the COO, and make food from the COO.

Parents were comparably committed to maintaining their children’s connections to COOs: 85 percent said it’s “very” or “extremely” important to do so; only 2 percent felt it was unimportant; and 13 percent said it was “neither important nor unimportant.” Parents reported a variety of steps they take to support their children’s connections, often citing the same actions they take for themselves. Unique steps to support children’s connections included: cultural school or camp, maintaining contact with friends in orphanage (one parent sponsored child’s friends who remain in the orphanage), and open family discussions about



adoption and COO. Parents overwhelmingly (86%) indicated that they plan to take their children to their COOS in the future. Other parents weren't sure (11%) or had no plans (3%).

### **Reflections on the Adoption Process**

Parents were asked several questions about their overall experience: most challenging and most helpful issues, would they adopt again, how prepared they were, and additional comments or suggestions for pre-adoptive parents. For those with multiple intercountry adoptions, we also asked how the experiences differed.

**Most challenging.** We received comments from 924 parents about what was the most challenging part of the process. The most common answers were completing paperwork and waiting for next steps in the process. Many commented on post-placement challenges, including supporting children who were grieving the loss of their birth families, friends and/or culture; or grieving the lack of knowledge about their birth family. In these latter cases, some parents faced the unfortunate consequence of their decision not to have birth family contact. Other families wrote poignantly about challenges in supporting children who had attachment disorders, including addressing and finding supports to address behavioral problems. Several families reflected that there was insufficient preparation for these issues.

**Most useful or helpful.** Almost 850 parents shared their thoughts about what was most helpful. The most common experiences clustered in the realm of adoption supports, including having communication with other PAPs or experienced adoptive families, and training and preparation for the placement. Adoption supports in COOs also were frequently noted, whether provided by guides and interpreters, adoption professionals, or others. A number of parents reflected that time in the COO enabled them to bond with children in their homelands and/or provided the opportunity to learn about their cultures. Direct contact with birth or foster parents was also a frequently noted highlight. For example, one parent cited this as a benefit: *"visiting and spending time with child and foster mother together, building the relationship with her birthmother for an open adoption."* In some cases, travel to COO was a requirement that provided parents with the experiences they found most useful: *"The requirement to travel to [COO], meet our child's birth relatives, attend court, and experience the country and culture."*

**Adopt again?** When asked if they would consider adopting again, parents overwhelmingly said they would not, for a variety of reasons. Of those responding (n=982), 41 percent said they had enough children; 19 percent said it was not possible at that time; 5 percent were not sure; and 4 percent indicated that the placement was too difficult to adopt again. Five percent indicated that they would adopt again, either domestically or from another country.

**Were parents adequately prepared?** Parents (n=873) were split on this question. Over 300 parents shared comments that indicated they were not sufficiently prepared, while over 350 indicated they were. Those who did not feel prepared tended to share comments about the post-placement experience, particularly children's behavior problems and their impact on family life. One parent noted, *"No! There should be far more information required for review/study by parents on bonding and attachment related issues with these kids. Facilitating*

*training on how to provide therapudic [sic] parenting for various age groups would have made a HUGE difference for us.”* Some reflected that they were not prepared to support children in transracial placements deal with racism. Some parents were not prepared for unsupportive (and in some cases unethical) practices, including agency staff lying, refusing support for families in crisis (whether in COO or in RC), and functioning more as a business than a social service. Parents who were prepared credited agency staff, other adoptive parents, or their own reading and research. Yet others qualified their comments on being prepared, noting how hard it is to be prepared for this type of experience. Several parents summed it up concisely: “*We were prepared for the process, but not the adoptive experience.*”

**Additional comments?** Parents (n=694) shared a wide range of observations. Aside from generic criticisms (e.g., “it is such a difficult process”) and compliments (e.g., “it was worth it all” and “we were lucky”), a number of parents shared their thoughts on their children’s legal availability for ICA. These deeply personal stories reflected attempts to be certain that children were in fact legally available, or to reckon with their role in possibly unethical placements. In some cases, parents wished there had been ways to support birth families so that the children could have remained with them.

**From parent to would-be parent.** The most powerful reflections came in the messages parents have for pre-adoptive parent. Parents offered cautionary messages about agencies, independent adoption professionals and virtually each step in the process. Other messages pointed to the ongoing challenges after placement – ones that continue years after the return home. A number of parents chose this opportunity to urge PAPs to consider and request birth parent contact, whether to provide children and adoptive families with a connection to their roots, or to ensure peace of mind about the legitimacy of the placement. Yet others were emphatic in urging PAPs to educate themselves about early trauma and its impact on children’s development and family functioning. In short, pre-adoptive parents were advised to prepare for all possibilities.